

1 STATE OF NEW YORK : NASSAU COUNTY

2 COUNTY COURT : PART XIV

3 THE PEOPLE OF THE STATE OF NEW YORK,

4 - against - IND: 1456N-00

5 PAUL SCRIMO,

6 JURY TRIAL

7 Defendant.

-----X

8 May 14, 2002
9 262 Old Country Road
Mineola, New York

10

B E F O R E:

11

12 THE HONORABLE JEFFREY BROWN,
County Court Judge.

13

A P P E A R A N C E S:

14

15 (As previously noted.)

16

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17

18 THE CLERK: Indictment 1456N of 2000, People
versus Paul Scrimo.

19

20 Case on trial continued. All parties are
present.

21

People ready?

22

MR. BIANCAVILLA: Ready.

23

THE CLERK: Defendant ready?

24

MR. CHAMBERLAIN: Yes.

25

COURT OFFICER: Jury entering.

Proceedings

1 (Whereupon, the sworn jurors entered the
2 courtroom and resumed their respective seats.)

3 THE CLERK: Do both sides stipulate all jurors
4 are present and seated properly?

5 MR. BIANCAVILLA: Yes.

6 MR. CHAMBERLAIN: Yes.

7 THE COURT: Good morning, ladies and gentlemen.
8 We are read to continue with the trial.

9 Mr. Biancavilla, call your next witness please.

10 MR. BIANCAVILLA: Detective Dempsey.

11 D E T E C T I V E R O B E R T D E M P S E Y, a witness
12 called on behalf of the People, having been duly sworn,
13 testified as follows:

14 COURT OFFICER: In a loud, clear voice, state
15 your full name, spelling your last name, shield number
16 and present command.

17 THE WITNESS: My name is retired Detective Robert
18 Dempsey, D-E-M-P-S-E-Y. I'm retired from the Nassau
19 County Police Department where I was employed as a
20 detective with the Homicide Squad.

21 THE COURT: You may inquire.

22 DIRECT EXAMINATION

23 BY MR: BIANCAVILLA:

24 Q Detective, prior to retiring, how many years did
25 you have with the Nassau County Police Department?

People - Det. Dempsey - Direct

1 A Just shy of 39 years, sir.

2 Q How many years were you assigned to the Homicide
3 Squad?

4 A A little over 22 years, sir.

5 Q Now, I am going to direct your attention to the
6 evening of May 2nd of the year 2000 into the early morning
7 hours of May 3rd of 2000. Were you working that day?

8 A Yes, sir.

9 Q Were you working -- or were you involved in the
10 investigation of the death of Ruth Williams?

11 A Yes, sir.

12 Q On May 2nd, the evening of May 2nd, what did you
13 do?

14 A It was some time around 9:50, 9:30 when I was
15 directed by my commanding officer, Lieutenant Frank
16 Guidice, to assist Detectives Cole and Cereghino and
17 Zimmerman in a surveillance stakeout and possibly the
18 arrest of a person who I see in the courtroom today,
19 Paul Scrimo.

20 Q What time did you leave the Homicide Squad?

21 A I believe it was around 9:30.

22 Q Did you travel to the Farmingdale area?

23 A Yes, sir.

24 Q Who did you travel out there with?

25 A I was a passenger in car 1062. I was with

People - Det. Dempsey - Direct

1 Detective Warren Zimmerman, a detective also assigned to
2 the Homicide Squad.

3 Q Was that a marked car or unmarked car?

4 A Unmarked car.

5 Q Did there come a time when you arrived in the
6 vicinity of the Village of Farmingdale?

7 A Yes.

8 Q Where did you guys park?

9 A We parked in a dark parking field which was
10 located north of the railroad tracks in Farmingdale.

11 Q Did any other detectives also go out to the
12 Farmingdale area that evening?

13 A Yes, Detectives Cereghino, James Cereghino, and
14 Michael Cole.

15 Q What type of vehicle did they go out in?

16 A I believe they were in an unmarked van.

17 Q Did you have any communication with them while you
18 were out in the Farmingdale area?

19 A Yes.

20 Q Without telling us what was said, could you tell
21 the jury what transpired?

22 A Well, I was parked in a very dark parking lot with
23 Detective Zimmerman and we were facing towards an
24 apartment complex called the Elizabeth Gardens, I believe.
25 It was some time -- it was about ten minutes after

People - Det. Dempsey - Direct

1 midnight on the 3rd of May when I saw Detective Cereghino
2 come running past the front of our car towards the back of
3 our car.

4 Detective Zimmerman and myself jumped out of our
5 car and at that time I saw Detective Cereghino confronting
6 Mr. Scrimo in the parking lot behind our vehicle and he
7 ordered Mr. Scrimo to lie face down on the roadway, that
8 he was under arrest.

9 At that time I saw Detective Cereghino place
10 handcuffs on Mr. Scrimo. Mr. Scrimo was then righted to
11 his feet. Detective Cereghino then directed
12 Detective Zimmerman and I to place him in our vehicle and
13 take him directly to police headquarters in Mineola where
14 the Homicide Squad is located.

15 Q Where was Mr. Scrimo placed in your vehicle?

16 A He was placed in the right rear passenger seat. I
17 was in the left rear passenger seat and Detective
18 Zimmerman drove the vehicle.

19 Q Please explain to the jury what transpired en
20 route to have Homicide Squad?

21 A It was only about five minutes after we started to
22 leave the Farmingdale area, we were on, I believe, Conklin
23 Street, when Mr. Scrimo said to me, What am I being
24 arrested for? And I said, You're being arrested for
25 murder. He said to me, Well, I couldn't have done any

People - Det. Dempsey - Direct

1 murders tonight because I was in the bar shooting darts
2 all night. I said, You are being arrested for the murder
3 of a woman who was found in her apartment about three
4 weeks ago.

5 At this point Mr. Scrimo says to me, I knew her
6 from town but I had nothing to do with it. At that point
7 I decided to give Mr. Scrimo his constitutional rights.

8 Q Please describe for the jury exactly how you did
9 that?

10 A I told him orally, I said, I want you to listen
11 carefully to me, Mr. Scrimo, because I'm going to give you
12 your constitutional rights.

13 I advised him that you have the right to remain
14 silent, that anything you do say can be used against you
15 in court. Do you understand that? He told me that he
16 did.

17 I also advised him that he had a right to talk to
18 a lawyer before answering any questions and have a lawyer
19 appointed for him free of charge if he could not afford to
20 hire one. I asked him if he understood that and he told
21 me that he did.

22 I also advised him that he had a right to remain
23 silent until he had a chance to talk to a lawyer. I asked
24 him if he understood that. He told me he did.

25 I then asked Mr. Scrimo, I says, Are you willing

People - Det. Dempsey - Direct

1 to speak to me now without talking to a lawyer first. And
2 he told me, I'll talk to you but I had nothing to do with
3 her murder and I told you I knew her from town.

4 At that point there was no further conversation
5 between myself and Mr. Scrimo and there was never any
6 conversation between Detective Zimmerman and Mr. Scrimo or
7 myself.

8 At about 20 minutes to 1:00 in the morning, we
9 pulled into the parking lot at police headquarters in
10 Mineola. We exited the vehicle and we went to the second
11 floor room 242 where the Homicide Squad is located.

12 After entering the Homicide Squad, I was directed
13 by Detective Parpan to take Mr. Scrimo to a rear interview
14 room which is located at the rear of the main squad room.
15 I did so. At that time Detective Parpan also told me to
16 take the handcuffs off of Mr. Scrimo. I removed the
17 handcuffs from him.

18 I then placed Mr. Scrimo in a chair alongside a
19 desk in the rear interview room. I then left that room
20 and I met with Detectives Parpan and McHugh. At that time
21 I advised them --

22 MR. CHAMBERLAIN: Objection to the narrative,
23 Judge. I would like questions and answers rather than
24 a narrative here.

25 THE COURT: All right. Ask another question.

People - Det. Dempsey - Direct

1 Q After you placed him in the interview room, what
2 happened?

3 A I left him alone. I closed the door. I then
4 entered the main squad room where I had a conversation
5 with Detectives Parpan and McHugh.

6 Q After that conversation what happened?

7 A After that conversation, I prepared notes to what
8 had transpired between me and Mr. Scrimo in the police
9 car, and after I prepared my notes, I later signed off
10 duty and went home.

11 Q Did you have any other contact with Mr. Scrimo
12 that night?

13 A No, sir.

14 MR. BIANCAVILLA: I have nothing further for this
15 witness.

16 THE COURT: Mr. Chamberlain.

17 CROSS-EXAMINATION

18 BY MR. CHAMBERLAIN:

19 Q Detective, you have been retired how long?

20 A Since March of 2001.

21 Q Keeping busy?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained.

24 Q Are you enjoying your requirement?

25 MR. BIANCAVILLA: Objection.

People - Det. Dempsey - Cross

1 THE COURT: Sustained.

2 Q You were on the force for 39 years?

3 A Yes, sir.

4 Q How many years in homicide?

5 A Little over 22, sir.

6 Q Would it be fair to say you have interrogated
7 many, many suspects during that 22-year period?

8 A I would say I have interviewed many people, not
9 interrogated.

10 Q Interviewed, and you've given them their rights,
11 right, before you interviewed them?

12 A Many times, sir.

13 Q Now, Detective, in this case when you gave Scrimo
14 his rights, was there any discussion concerning a recent
15 decision that indicated you were no longer required to
16 give him his rights?

17 A No, I knew nothing about this recent decision, to
18 be very frank with you, sir.

19 Q There was such a decision but you knew nothing
20 about it; is that your testimony?

21 MR. BIANCAVILLA: Objection.

22 THE COURT: Sustained.

23 Q If I tell you, Detective, that as soon as you left
24 Mr. Scrimo, when he was interviewed by other detectives,
25 he said something about I understand I no longer have to

People - Det. Dempsey - Cross

1 be given rights, would that refresh your recollection as
2 to whether there was any discussion between you and him
3 concerning that matter?

4 MR. BIANCAVILLA: Objection.

5 THE COURT: You said after, Mr. Chamberlain? Did
6 you say after Detective Dempsey left?

7 MR. CHAMBERLAIN: Yes.

8 THE COURT: Sustained.

9 Q You indicated that you went out -- you were
10 assigned by Lieutenant Guidice to go out to a surveillance
11 and possibly arrest. Was that your testimony?

12 A Yes.

13 Q Was there any question about the fact that you
14 were going out to arrest Mr. Scrimo?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Overruled.

17 A Well, I was part of a surveillance team. I didn't
18 know beforehand whether or not we were going to arrest him
19 or not.

20 Q You didn't? You weren't told to go to arrest him?

21 A We were going to arrest him if we found him, yes.

22 Q And when you say if you found him, you knew where
23 he lived; right?

24 A Yes.

25 Q And you knew at that time where he would be on

People - Det. Dempsey - Cross

1 that particular Tuesday night, did you not?

2 A I didn't know that, sir.

3 Q Well, hadn't you been told where he would he would
4 be at that Falcons Nest bar right alongside the parking
5 lot where you and other detectives were parked?

6 A I was told he frequented that bar but I didn't
7 know he was in that bar.

8 Q Is it your testimony that none of the detectives
9 going out to arrest Scrimo knew that he was at that bar
10 that particular night?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: Sustained as to what the other
13 detectives knew.

14 Q You had been out there -- you left about 9:30.
15 Did you get out there about 9:45, Detective?

16 A I would say it was near ten o'clock. Yeah, ten
17 o'clock, sir.

18 Q Was there some prior testimony -- withdrawn.

19 He wasn't arrested until he had exited the Falcons
20 Nest at about ten after 12:00; is that correct.

21 MR. BIANCAVILLA: Objection.

22 A I don't know where he exited from.

23 THE COURT: I'll permit it. The answer will
24 stand.

25 Q You don't know where he exited from?

People - Det. Dempsey - Cross

1 A No.

2 Q Were you in communication -- there were four
3 police officers out there; right?

4 A Three other detectives besides myself.

5 Q All homicide?

6 A Well, three homicide. One temporarily assigned to
7 homicide, yes.

8 Q Who was that?

9 A That was Detective Michael Cole.

10 Q All of you experienced, long term detectives;
11 right?

12 A I believe so.

13 Q Twenty-five or so years most of them; right?

14 MR. BIANCAVILLA: Objection.

15 MR. CHAMBERLAIN: Withdrawn.

16 Q Didn't you people communicate as to where you were
17 going to -- where Scrimo was and where he would be
18 arrested?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: I'll permit the question as to
21 whether they had communication.

22 Q Did you have any communications?

23 A Yes.

24 Q Did they concern where Scrimo was?

25 A I don't recall any radio communication notifying

People - Det. Dempsey - Cross

1 us where he was located, no.

2 Q Between yourselves?

3 A I don't understand your question.

4 Q Did you communicate between yourselves as to where
5 Scrimo was? Why were you parked at that location?

6 MR. BIANCAVILLA: Objection.

7 THE COURT: Sustained. That's two questions.

8 Q Did you communicate between yourselves, the four
9 detectives who had been sent to arrest Scrimo, as to where
10 he was, where he was located?

11 MR. BIANCAVILLA: Objection. There are three
12 questions there.

13 THE COURT: Sustained.

14 Q Did you have any other communication between 9:45
15 or 10:00 p.m. and 12:10 when he was arrested?

16 THE COURT: With whom?

17 Q With the other detectives.

18 THE COURT: Okay.

19 A Yes, we had communication as far as where our
20 location was.

21 Q What about where the defendant, the suspect, was
22 at that point?

23 A I don't recall any communication about where he
24 was.

25 Q If I tell you that another detective testified

People - Det. Dempsey - Cross

1 previously that you all knew where --

2 MR. BIANCAVILLA: Objection. No other detective
3 has testified yet.

4 MR. CHAMBERLAIN: At a previous hearing.

5 THE COURT: No. No. Sustained.

6 Ladies and gentlemen, disregard that testimony.
7 Strike it from your minds.

8 Q Do you of your own knowledge have any information
9 as to what Scrimo had been doing that evening up until the
10 time he was arrested?

11 MR. BIANCAVILLA: Objection. It is hearsay and
12 calls for speculation, Judge.

13 THE COURT: Sustained.

14 Q To your knowledge, did any of you four detectives
15 confirm where Scrimo was up until 12:10 p.m.?

16 MR. BIANCAVILLA: Objection.

17 THE COURT: Sustained, Mr. Chamberlain.

18 Q Detective, you were sitting in a parking lot for
19 over two hours. Were you just waiting for Scrimo to walk
20 by? Do you know why you were sitting in that parking lot?

21 MR. BIANCAVILLA: Objection. There was a
22 statement and two questions.

23 THE COURT: Mr. Chamberlain, please, ask
24 questions. You have a habit of making compound
25 questions out of information.

People - Det. Dempsey - Cross

1 Q You were sitting in a parking lot for over two
2 hours that evening; is that correct?

3 A Yes.

4 Q You had been sent to arrest Mr. Scrimo; is that
5 correct?

6 A Yes.

7 Q Did you -- were you told why you were supposed to
8 wait in that particular location?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: I'll permit that.

11 A We were told to take a position north of the
12 railroad tracks.

13 Q Were you told why?

14 A They told us in case he came along. I don't know.

15 Q In case he came along?

16 A Yeah.

17 Q Did Lieutenant Guidice tell you why Scrimo was
18 being arrested?

19 A No.

20 MR. BIANCAVILLA: Objection.

21 THE COURT: Sustained. Sustained.

22 Q When you left police headquarters in Mineola it
23 was to go out there to Farmingdale to arrest Scrimo; is
24 that right?

25 MR. BIANCAVILLA: Judge, asked and answered four

People - Det. Dempsey - Cross

1 times.

2 THE COURT: This is the last time,
3 Mr. Chamberlain.

4 Q The question is you left from police headquarters?

5 A In Mineola, yes, sir.

6 Q Were you aware of John Kane being in police
7 headquarters at that time?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Sustained.

10 Q Now, when you told Scrimo he was being arrested
11 for murder, that was before any rights; is that correct?

12 A Yes.

13 Q What was his answer?

14 A He said to me, I knew her from town but I had
15 nothing to do with it.

16 Q I thought you told this jury that, I couldn't have
17 committed any murder, I have been drinking here in this
18 bar all night?

19 MR. BIANCAVILLA: Objection. That wasn't an
20 accurate reflection of the testimony. He said nothing
21 about drinking in a bar all night.

22 THE COURT: I'll let the detective testify.

23 Q What did he say when you say you're being arrested
24 for murder?

25 A He said, I couldn't have done any murders because

People - Det. Dempsey - Cross

1 I have been in the bar shooting darts all night.

2 Q He didn't say anything about her at that point,
3 right, I knew her from town?

4 A Well, the next conversation he had with me he said
5 that.

6 Q But when you say the next conversation, that was
7 after you told him about a murder that had occurred some
8 three week prior; is that correct?

9 A What I said to him, sir, was that you're being
10 arrested for the murder of a woman who was found in her
11 apartment a few weeks ago. I never mentioned where it
12 was, Farmingdale, or anything else.

13 Q And after you advised him of his rights, nothing
14 further was said as to that case?

15 A Oh, yes.

16 Q After he said, I'll talk to you, nothing further
17 was said?

18 A He said to me, I'll talk to you but I had nothing
19 to do with the murder, and I told you that I knew her from
20 town.

21 Q Anything else?

22 A No.

23 MR. CHAMBERLAIN: Nothing further.

24 THE COURT: Any redirect?

25 MR. BIANCAVILLA: No, Judge.

People - Det. Dempsey - Cross

1 THE COURT: Thank you, Detective Dempsey.

2 THE WITNESS: Thank you, your Honor.

3 (Whereupon, the witness was excused from the
4 witness stand.)

5 THE COURT: Call your next witness,

6 Mr. Biancavilla?

7 MR. BIANCAVILLA: May we approach, please?

8 THE COURT: Yes.

9 (Whereupon, off-the-record discussion took
10 place at the bench.)

11 THE COURT: Call your next witness.

12 MR. BIANCAVILLA: Detective McHugh.

13 D E T E C T I V E J O H N M C H U G H, a witness called
14 on behalf of the People, having been duly sworn, testified
15 as follows:

16 COURT OFFICER: State your name, spelling your
17 last name, shield number and command.

18 THE WITNESS: Detective John McHugh, M-C capital
19 H, H-U-G-H, shield 624, Homicide Squad, Nassau County
20 Police.

21 THE COURT: You may inquire.

22 DIRECT EXAMINATION

23 BY MR. BIANCAVILLA:

24 Q Detective McHugh, good morning.

25 A Good morning.

People - Det. McHugh - Direct

1 Q Detective --

2 MR. BIANCAVILLA: Judge, I'm looking for the
3 easel. It's behind the board there.

4 Q Detective, how long have you been a police
5 officer?

6 A It will be 27 years next month.

7 Q How long have you been assigned to the Homicide
8 Squad?

9 A Five years.

10 Q Detective, were you involved in the investigation
11 of the death of Ruth Williams?

12 A Yes, I was.

13 Q As a result of that investigation, did you travel
14 to the Farmingdale area?

15 A Yes.

16 Q Did you familiarize yourself with the Farmingdale
17 area?

18 A Yes.

19 MR. BIANCAVILLA: May we post People's Exhibit 9
20 in evidence, Judge?

21 THE COURT: Yes.

22 Q Officer --

23 THE COURT: Detective, you may want to step into
24 the well.

25 Q Detective, I'm handing you a group of colored

People - Det. McHugh - Direct

1 stickers. Detective, could you please indicate for the
2 jury where the 7-Eleven is located?

3 A 7-Eleven is located right here.

4 Q Would you, please, place a yellow sticker on that
5 location?

6 A (Witness complying.)

7 Q Could you, please, indicate for the jury where the
8 apartment building that Paul Scrimo was the superintendent
9 at was located and where he resided?

10 A This building here.

11 Q Please place a sticker on that. Use a red
12 sticker.

13 A (Witness complying.)

14 Q The Downtown Bar, could you point for the jury and
15 show them where the Downtown Bar is?

16 A Right here.

17 Q That would be the rear of the Downtown Bar?

18 A That would be the rear.

19 Q Place the sticker in the front. The entrance
20 is -- there's an entrance on Main Street?

21 A Yes.

22 Q How about the Falcon's Nest?

23 A On the corner here.

24 Q And the bar, Granny O'Shea's?

25 THE COURT: Mr. Biancavilla, you should be

People - Det. McHugh - Direct

1 telling us which sticker you put on each item.

2 MR. BIANCAVILLA: They are yellow.

3 THE COURT: You're not putting it in the record.

4 MR. BIANCAVILLA: The detective is placing a
5 sticker entitled Granny O'Shea's on Granny O'Shea's.

6 Q Now, will you place a sticker depicting Y.L.
7 Childs on the location of Y.L. Childs?

8 A (Witness complying.)

9 Q Detective, during the course of your
10 investigation, did the Nassau County Police Department set
11 up what's commonly referred to as a command bus at that
12 location?

13 A Yes, we did.

14 Q Just show the jury where the command bus was
15 located?

16 A Right here.

17 Q Please put a blue sticker where the command bus
18 was located?

19 A (Witness complying.)

20 Q During the course of the investigation, did you
21 also determine where John Kane was living?

22 A Yes, I did.

23 Q Please put a sticker where John Kane was living?

24 A (Witness complying.)

25 Q Detective, did there come a time during the course

People - Det. McHugh - Direct

1 of your investigation when you walked from Y.L. Childs to
2 the apartment of Ruth Williams?

3 A Yes, I did.

4 Q Could you, please, indicate for the jury the route
5 that you took from Y.L. Childs to the apartment of Ruth
6 Williams?

7 A From Y.L. Childs going west on Conklin Avenue,
8 making a right, going south -- I'm sorry, going north on
9 Main Street, a left just before the railroad tracks which
10 would be South Front Street, around to the back parking
11 lot to the entrance to the apartment.

12 Q Did you time yourself when you walked that?

13 A Yes, I did.

14 Q Could you tell jury how long it took you to walk
15 that?

16 A Between three and three and a half minutes.

17 Q Also during the course of your investigation did
18 there come a time when you walked from the 7-Eleven store
19 to the apartment of Ruth Williams?

20 A Yes.

21 Q Could you describe for the jury the route that you
22 took to walk from 7-Eleven to the apartment of
23 Ruth Williams?

24 A Came out of 7-Eleven, went south on Main Street,
25 over the tracks, made a right on Front Street and around

People - Det. McHugh - Direct

1 to the back entrance of the apartment.

2 Q How long did it take you to do that?

3 A Minute and a half.

4 Q You may be seated now.

5 Detective, I am going to show you what's in
6 evidence as People's Exhibit 4, the lineup photograph.

7 Do you recognize that photograph?

8 A Yes, I do.

9 Q Could you just tell the jury who is seated in
10 position number four of that lineup photograph?

11 A The defendant, Paul Scrimo.

12 MR. BIANCAVILLA: I would ask that this be
13 marked, I believe, as People's 86 for identification.

14 (Whereupon, the above-mentioned item was
15 marked as People's Exhibit 86 for identification
16 only.)

17 COURT OFFICER: People's 86 marked for
18 identification.

19 MR. BIANCAVILLA: Please show it to the
20 detective.

21 Q Detective McHugh, you're being shown what's marked
22 as People's 86 for identification. Do you recognize that?

23 A Yes.

24 Q What do you recognize that to be?

25 A It's a photograph that appeared in Newsday of

People - Det. McHugh - Direct

1 myself standing next to the defendant at the rear of
2 police headquarters.

3 Q When was that photograph published?

4 A Friday, May 5th, 2000.

5 Q Detective, on April 19th, did you interview
6 Francine Quinn?

7 A Yes, I did.

8 Q As a result of your interview, or as part of your
9 interview with Francine Quinn, did you go to a particular
10 location in the Village of Farmingdale?

11 A Yes, I went to the rear parking lot behind Captain
12 Andy's Restaurant and the place of occurrence.

13 Q Where -- what particular location did you go to in
14 this parking lot?

15 A The parking lot which would be the third row west
16 of the place of occurrence where the first set of cars are
17 parked facing each other.

18 Q Did you make an observation from that particular
19 location?

20 A Yes, I did.

21 MR. BIANCAVILLA: Judge, could we display
22 People's 31?

23 THE COURT: Yes.

24 MR. BIANCAVILLA: May I have Defense Exhibits A,
25 B and C, please?

People - Det. McHugh - Direct

1 Q Detective, your location within that parking lot
2 and the view you were observing, was that result of the
3 conversation that you had with Francine Quinn?

4 A Yes.

5 Q Will you, please, step out of the witness box once
6 more. I am going to ask you to take a look at a
7 photograph depicted as People's Exhibit 8.

8 Do you see that photograph?

9 A Yes, I do.

10 Q Does that fairly and accurately depict the view
11 that you had from standing at the position where you were
12 standing as a result of your conversation with
13 Francine Quinn?

14 MR. CHAMBERLAIN: Objection.

15 THE COURT: What's the nature of your objection?

16 MR. CHAMBERLAIN: Bolstering, Judge. We had
17 Miss Quinn testify here as to what her position was.

18 THE COURT: Overruled.

19 MR. CHAMBERLAIN: What she may have told the
20 detective --

21 THE COURT: Overruled.

22 Q Detective, the view that you observed from the
23 position where you were standing after your conversation
24 with Francine Quinn, does that photograph fairly and
25 accurately depict that view?

People - Det. McHugh - Direct

1 A Yes.

2 Q I am going to show you Defense Exhibit A -- I'm
3 sorry, Defense Exhibit B in evidence, and I'm going to ask
4 you to take a look at that photograph.

5 Does that photograph fairly and accurately depict
6 the view of the rear of those buildings from the position
7 that you were standing as a result of your conversation
8 with Francine Quinn?

9 A No, it does not.

10 Q Now, I'm going to show you Defense Exhibit C?

11 MR. CHAMBERLAIN: I object to this. This is
12 contradicted by the witness' testimony --

13 MR. BIANCAVILLA: Excuse me, Judge.

14 THE COURT: I don't want any colloquy, on the
15 record, Mr. Chamberlain. Just object and I will rule.

16 MR. CHAMBERLAIN: May we have a conference at the
17 bench?

18 THE COURT: Come forward.

19 (Whereupon, the following took place at the
20 bench.)

21 THE COURT: What is the nature of your objection,
22 Mr. Chamberlain?

23 MR. CHAMBERLAIN: The position she was in was
24 indicated on this photograph. She marked that. What
25 he is doing is attacking the credibility of his own

People - Det. McHugh - Direct

1 witness by a statement she made after the fact through
2 the detective and it's really -- first of all, it's
3 attacking her prior statement. People's 8 in evidence
4 is from 25 feet away. It's not from three rows away.
5 He is attacking her credibility and the prior
6 testimony and this is not a proper way to do it.

7 MR. BIANCAVILLA: I am not attacking her
8 credibility. She said those photographs didn't depict
9 the view either. I have not asked this detective a
10 word about what she told him. All I said was, based
11 on the conversation that you had with her, did you go
12 to a particular location and I'm asking him to tell
13 the jury what his observations were and what he is
14 saying -- don't touch that.

15 THE COURT: Bring the exhibit over.

16 MR. BIANCAVILLA: Could you ask the jury to leave
17 the room. I'm done.

18 (Whereupon, the following took place in open
19 court.)

20 THE COURT: Ladies and gentlemen, we are going to
21 take a short break at this point.

22 Do not discuss the case amongst yourselves or
23 with anyone else. Keep an open mind. Do not form or
24 express any opinions until the entire case has been
25 completed.

People - Det. McHugh - Direct

1 Do not read or listen to any accounts of the
2 case should they be reported in the media. Do not
3 visit or view any place or premises that have been
4 mentioned.

5 You are not to permit any party to discuss the
6 case with you or attempt to influence you, and you
7 must promptly report to the Court any violation
8 thereof.

9 (Whereupon, the sworn jurors exited the
10 courtroom.)

11 THE COURT: Mr. Chamberlain, what is the nature
12 of your objection?

13 MR. CHAMBERLAIN: Judge, the nature of the
14 objection is that he is either attacking his own
15 witness' credibility, because she testified not that
16 People's 8 -- I apologize for knocking over your water
17 pitcher, Judge -- but People's 8 shows a view of the
18 back door 25 feet away from that door. That's not
19 where she was, according to her testimony here and
20 before.

21 Her testimony was that she was parked in the
22 third row. In the grand jury she said the last row
23 you would park in. That was shown and she pointed
24 that position out in the -- Defendant's Exhibit B.
25 It's a significant difference away from where

People - Det. McHugh - Direct

1 People's 8 is shown. In any event, Judge, it's
2 improper for him to attempt to bring out --

3 THE COURT: Are you arguing he is impugning the
4 integrity of his own witness.

5 MR. CHAMBERLAIN: I am and I am arguing he can't
6 bring out what Miss Quinn showed -- was seeing,
7 rather.

8 THE COURT: He hasn't done that. He just said
9 based on a conversation with her, and he asked the
10 question after that.

11 MR. CHAMBERLAIN: The question was is that the
12 view she said she was sitting in.

13 MR. BIANCAVILLA: That's not what I said, Judge.
14 I asked this detective if he had a conversation with
15 Francine Quinn. He said yes. Based upon that
16 conversation did you go to a particular location in
17 that parking lot and look in a particular direction?
18 He said yes. Then I showed him a picture. Does this
19 fairly and accurately reflect the view that you
20 observed from standing at that particular location and
21 his answer was yes. Then I showed him
22 Mr. Chamberlain's exhibits and asked him the same
23 question and he answered no. I haven't said nothing
24 about Francine Quinn.

25 Mr. Chamberlain's objection has nothing to do

People - Det. McHugh - Direct

1 with what Francine Quinn may or may not have said.
2 It has nothing to do with it. If I might add,
3 Francine Quinn answered those questions in the same
4 way this detective has answered these questions, that
5 Defendant's B and C does not accurately reflect the
6 view of what she saw and that People's 8 does reflect
7 the view of what she was seeing, and she said she
8 observed that view from 50 feet away.

9 I don't understand the basis for the objection,
10 Judge. I don't. There is no legal basis for the
11 objection.

12 MR. CHAMBERLAIN: The purpose of the question is
13 obvious. It's what Francine Quinn saw.

14 MR. BIANCAVILLA: It's not.

15 MR. CHAMBERLAIN: Don't interrupt me.

16 MR. BIANCAVILLA: It's what the detective saw.

17 THE COURT: Excuse me. Excuse me. The detective
18 is a different person than Francine Quinn, shorter,
19 taller.

20 MR. BIANCAVILLA: That's right. He can cross him
21 on that. We are wasting more time at this trial with
22 these nonsense arguments of Mr. Chamberlain's. We
23 have been six days through trial and we spend more
24 time listening to Mr. Chamberlain's arguments that
25 have no basis in fact or law. We are going to be here

People - Det. McHugh - Direct

1 for a month if we don't just move --

2 THE DEFENDANT: You're talking 20 years for me,
3 pal.

4 THE COURT: Mr. Scrimo, please don't say
5 anything.

6 MR. CHAMBERLAIN: I resent the last remark. The
7 reason we are having nonsense in this trial, as
8 Mr. Biancavilla puts it, is he is trying to put a
9 detective on to say what Miss Quinn saw. He is trying
10 to establish a position that she did not testify to
11 before.

12 If you look at these exhibits, while she may
13 have claimed to have seen what was in People's 8, her
14 position, the position she was standing in, was
15 considerably different and that was not the position
16 she was standing in.

17 This is merely trying to either change what she
18 has testified to or discredit what she has testified
19 to or attack it. It's not clear from her testimony
20 that she was standing where that picture of People's
21 8 was taken and that was her view. That's not clear.

22 I respectfully submit that the problem here is
23 that what he is trying to do is putting this type of
24 evidence in, not with the objections.

25 THE COURT: The problem I have here is that it

People - Det. McHugh - Direct

1 appears to me, Mr. Biancavilla, you are placing a
2 witness on the stand and asking him to make -- to take
3 testimony based upon the information given to him by
4 Francine Quinn.

5 MR. BIANCAVILLA: Judge, he's standing in a
6 specific position in a parking lot. There's nothing
7 wrong with that. He's standing in a particular
8 position. I didn't ask him what the witness told him.
9 He went to a particular location. He made an
10 observation. He's testifying as to his personal
11 observation. There's absolutely nothing improper with
12 that.

13 MR. CHAMBERLAIN: Why is he standing in that
14 position if that's not what the witness told him?

15 MR. BIANCAVILLA: You can ask him is that.

16 MR. CHAMBERLAIN: That's what you are offering
17 here.

18 MR. BIANCAVILLA: There's nothing wrong with
19 that. That's like test firing a firearm. If I handed
20 a person in SIB a firearm and he test fires it --

21 THE COURT: Miss Quinn was the one who was
22 actually standing in the parking lot. The detective
23 wasn't there. The conditions aren't the same. We
24 don't know if the cars are the same.

25 MR. BIANCAVILLA: That's all subject matter to

People - Det. McHugh - Direct
1 cross-examination.

2 THE COURT: I disagree.

3 MR. BIANCAVILLA: Fine. I'll lay a better
4 foundation, that's all, and -- that is wrong, Judge.

5 THE COURT: You have an exception.

6 (Whereupon, a brief recess was taken.)

7 THE COURT: Yes, Mr. Biancavilla?

8 MR. BIANCAVILLA: My only point with respect to
9 Detective McHugh's testimony, Judge, is the same as if
10 we were offering a photograph in evidence. It's no
11 different. He's just talking about his personal
12 observation of it.

13 When we put a photograph in evidence, all we say
14 is does that fairly and accurately depict something.
15 All I'm asking him is does that fairly and accurately
16 depict a view he observed from a particular location.
17 It's no different than offering a photograph into
18 evidence.

19 The fact as to how he got to the location is
20 irrelevant. I asked him, based upon a conversation,
21 did you go to a particular location and he went to
22 that particular location. If he took a photograph
23 and I offered the photograph into evidence and said
24 does that fairly and accurately depict the view, it
25 would be admissible.

People - Det. McHugh - Direct

1 . If Mr. Chamberlain wanted to cross-examine him
2 regarding the day or time, how many cars were in the
3 parking lot, things of that nature, it doesn't go to
4 the admissibility; it just goes to the weight.
5 That's my only argument, Judge. Any of these
6 additional things just go to the weight.

7 I apologize for being rude before, if I was,
8 which I probably was, but that's my only point, that
9 it goes to the weight the jury should give the
10 evidence, not the admissibility of it.

11 THE COURT: Anything further?

12 MR. CHAMBERLAIN: You want more argument?

13 THE COURT: With respect to that. All
14 Mr. Biancavilla is doing is asking if a photograph
15 fairly and accurately depicts a particular view.

16 MR. CHAMBERLAIN: Judge, he is not the witness as
17 to what was seen from that view. The witness who
18 has -- had something to say about that view has
19 already testified.

20 The purpose of this is not just introducing a
21 photograph, this is establishing what a particular
22 witness said about that view and the purpose of this
23 testimony is to try to clarify, bolster or impeach
24 that witness and that witness has testified.

25 THE COURT: Just so the record is clear, what did

People - Det. McHugh - Direct

1 Miss Quinn testify to with respect to the photographs,
2 with respect to People's 8 and Defendant's B and C?

3 MR. CHAMBERLAIN: She indicated a number of
4 different things. It may be that the jury is
5 uncertain about what her testimony was but it should
6 be based upon her testimony.

7 Her testimony was first, on direct, that
8 People's 8 was the view. But subsequent testimony,
9 based upon cross-examination and her prior testimony
10 before the grand jury, her car, she was alongside the
11 driver side door of her car which was parked in the
12 third row, the furthest from that door, and the
13 photograph that we put in shows that location.

14 It's improper for him to try to correct, change,
15 add to, detract from, impeach her testimony as to
16 what she saw. The question is what did she see on
17 the night in question, April 11th.

18 MR. BIANCAVILLA: So the record is clear, she
19 looked at both of those exhibits and said with respect
20 to both of those exhibits that they do not fairly and
21 accurately reflect the view that she had.

22 The only thing she said about one of those
23 photographs is that in a particular corner was where
24 a particular part of her car was.

25 When she was asked by me and Mr. Chamberlain,

People - Det. McHugh - Direct

1 she said that is not the view that she had. She
2 looked at People's 8 and said, People's 8 is the view
3 that I had except I was standing 50 feet away.

4 Actually, a crime scene detective said that this
5 photograph was taken from 25 feet away. That's what
6 the testimony is, Judge.

7 MR. CHAMBERLAIN: And the testimony is also that
8 she marked Defendant's C and then she said the place
9 where she marked it, which is where her car was --

10 MR. BIANCAVILLA: Right.

11 MR. CHAMBERLAIN: Don't interrupt, please.

12 She marked an X as to where her car was, but
13 then she said she was further away because she was
14 alongside the driver's side. She also testified,
15 Judge, confirming what she had told the grand jury,
16 it was more behind the Downtown --

17 THE COURT: What she told the grand jury is not
18 of importance.

19 MR. CHAMBERLAIN: But she testified here.

20 THE COURT: What came out of the witness' mouth
21 is important.

22 MR. CHAMBERLAIN: She testified here the car was
23 parked more behind the Downtown than Captain Andy's.

24 That photograph and another one -- that B and C,
25 shows the line between the two and after saying it was

People - Det. McHugh - Direct

1 more behind the Downtown, she then said it was in
2 middle.

3 THE COURT: Part of the problem I have is I'm not
4 sure where the detective was standing in the parking
5 lot based on his conversation with Miss Quinn. I'm
6 not sure if Miss Quinn took --

7 MR. BIANCAVILLA: Judge, he testified where he
8 was standing. He said he went to the third row.

9 THE COURT: That's a long row.

10 MR. BIANCAVILLA: He said a particular spot and
11 Mr. Chamberlain was agreeing with his testimony while
12 he was saying it, that he was going to the third row
13 to a particular spot and he made observation of the
14 back of the bars.

15 I didn't ask him because I don't want him to
16 testify as to hearsay. I have been preventing any
17 hearsay testimony.

18 All he said, which is completely legally proper,
19 based upon that conversation, he walked to the third
20 row of the parking field and stood in a particular
21 location behind those bars and he viewed the back of
22 the restaurants. Then all I asked him was --

23 THE COURT: I think you have to lay a better
24 foundation. At this point I'll sustain the objection.

25 Bring the jury in.

People - Det. McHugh - Direct

1 MR. CHAMBERLAIN: In addition to the foundation,
2 my objection remains. I disagree with what the
3 detective said, but, regardless of foundation, I would
4 object to his testifying as to what Francine Quinn
5 said her view was.

6 She has testified here. That is an attempt to
7 change, bolster, modify, clarify, whatever, her
8 testimony. That's improper. That's the basis of my
9 objection.

10 THE COURT: I understand your bolstering
11 argument, Mr. Chamberlain. At this point I'm not
12 saying one way or the other. I want to see what type
13 of foundation Mr. Biancavilla lays. I may agree with
14 you after the foundation is laid.

15 Bring the jury in.

16 COURT OFFICER: Jury entering.

17 (Whereupon, the sworn jurors entered the
18 courtroom and resumed their respective seats.)

19 THE CLERK: Do both sides stipulate all sworn
20 jurors are present and seated properly?

21 MR. BIANCAVILLA: Yes.

22 MR. CHAMBERLAIN: Yes.

23 THE COURT: Ask the detective to come back in,
24 please.

25 (Whereupon, the witness resumed the witness

1 People - Det. McHugh - Direct
stand.)

2 MR. BIANCAVILLA: Thank you, Judge.

3 May we have the Court's ruling on the record
4 please?

5 THE COURT: The objection is sustained.

6 CONTINUED DIRECT

7 BY MR. BIANCAVILLA:

8 Q Detective McHugh, when you went to the parking lot
9 with Francine Quinn, what time of the day was it, or
10 evening?

11 A Say 9:00 p.m.

12 Q Could you tell the jury what type of -- what were
13 the lighting conditions?

14 A Lighting conditions were very good.

15 Q Was it dark out, light out, where you were
16 standing?

17 A It was dark out. There is lighting in the parking
18 lot and the area at the rear of the restaurant is
19 extremely well lit.

20 Q Now, where you were standing, could you give -- as
21 close as you can get to exactly, tell the jury where you
22 were standing in that parking lot by -- in terms of how
23 many rows back you were?

24 A I was in the first row where cars are parked
25 facing each other.

People - Det. McHugh - Direct

1 Q But how far -- how many rows into the parking lot
2 were you?

3 A That would be the second row of the parking lot.

4 Q How many -- positioning yourself between the
5 buildings, approximately where were you between the two
6 buildings?

7 A Between what two buildings?

8 Q The restaurant, the Downtown and Captain Andy's,
9 where were you standing?

10 A Directly across from between the two of them.

11 Q From between the two of them?

12 A Correct.

13 Q Approximately how many feet away were you standing
14 in that particular location?

15 A Sixty feet.

16 MR. CHAMBERLAIN: Judge, 60 feet away from what?

17 THE COURT: Yes.

18 A From the building.

19 MR. BIANCAVILLA: That's it on foundation, Judge.

20 THE COURT: Objection, Mr. Chamberlain?

21 MR. CHAMBERLAIN: Same objection.

22 THE COURT: I'll sustain the objection.

23 Ladies and gentlemen, you should disregard the
24 testimony you previously heard with respect to the
25 two questions prior to when we broke.

People - Det. McHugh - Direct

1 Q Detective McHugh, on April 15th, did there come a
2 time when you interviewed John Kane?

3 A Yes.

4 Q Where did that interview occur?

5 A At his home on Melville Road in Farmingdale.

6 Q Could you describe for the jury exactly how he was
7 dressed at the time of that particular interview?

8 A He was wearing a pair of shorts and a T shirt.

9 Q Did you observe any injuries on John Kane at that
10 interview on April 15th?

11 A He had an old injury to his head that was scabbed
12 over.

13 Q Could you tell the jury when it was that you first
14 interviewed Paul Scrimo?

15 A On the 20th of April, 2000.

16 Q Were you working -- obviously you were working
17 that day. What time did you come into work that day on
18 the 20th?

19 A I believe it was 8:00 a.m.

20 Q Around four o'clock in the afternoon, where were
21 you?

22 A I was on the corner of Front Street and Main
23 Street in Farmingdale walking south on Main Street.

24 Q Who were you with?

25 A Detective Cole from the Eighth Squad.

People - Det. McHugh - Direct

1 Q Tell the jury what happened at that particular
2 time?

3 A As we were walking south across the street, also
4 on Main Street walking north, we saw the defendant.

5 Q Could you describe how he appeared at that time?

6 A He was a large, bald-headed, full-sized male in
7 his late 30s.

8 Q Did you make eye contact?

9 A Yes, I did.

10 Q Did you know who he was at the time?

11 A No, I did not.

12 Q What did you do at that point?

13 A We continued south on Main Street and we went to
14 Y.L. Childs Bar to conduct an interview.

15 Q While you were at Y.L. Childs Bar, did something
16 happen?

17 A I was paged to my office.

18 Q Did you call your office?

19 A Called my office.

20 Q Based upon that telephone call to your office,
21 what did you do?

22 A I called a Mr. Scrimo at the telephone number that
23 he had left in my office.

24 Q Now, where were you when you made that telephone
25 call?

People - Det. McHugh - Direct

1 A I was in the command bus behind the place of
2 occurrence.

3 Q That telephone call, please describe to the jury
4 that conversation?

5 A I dialed the number that had been provided. A
6 male answered. I identified myself. I said, I'm
7 Detective McHugh from the Nassau County Police, Someone
8 just called my office indicating they wanted to speak to
9 me. I asked for Mr. Scrimo.

10 The gentleman that answered the phone said, I'm
11 Mr. Scrimo. I said, What can I do for you? He said, I
12 understand you are looking to speak to a big, bald-headed
13 guy that was out at Y.L. Childs on Tuesday night.

14 I said, Yes, I am. I said, Would it be possible
15 for us to speak to you, I'm not really familiar with where
16 you live could we come by and speak to you?

17 He said, I really don't have anything to add but I
18 really don't want you to come by either, my wife is
19 getting home from work, my kids are coming home.

20 I said, Would it be possible for you to come to
21 the command bus behind Captain Andy's?

22 Q What did he say?

23 A He said he would come over. He said he would be
24 over in about ten minutes.

25 Q Did there come a time that he arrived at the

People - Det. McHugh - Direct

1 command bus behind Captain Andy's?

2 A Yes.

3 Q Approximately what time was that?

4 A About 5:15 p.m.

5 Q When he arrived at the command bus -- by the way,
6 describe to the jury how the command bus is set up, what's
7 inside the bus?

8 A Inside the command bus are benches. There is a
9 table you can use as a desk. There's are police
10 department computers. It's about 30 feet long and we use
11 it to conduct interviews.

12 Q When he arrived at the command bus, did you invite
13 him in?

14 A Yes.

15 Q Who else was present in the command bus at that
16 time?

17 A Also Detective Cole.

18 Q Now, could you tell the jury how Mr. Scrimo was
19 attired at the time?

20 A At that time he was wearing black jeans, a long
21 sleeved gray T shirt, black boots. He had a belt on. On
22 the belt he had a chain with some keys and he also had a
23 black pouch that contained something. I couldn't see what
24 it was.

25 Q I am going to show you People's Exhibit 44 and ask

People - Det. McHugh - Direct

1 you if you recognize that pouch?

2 A It appears to be the type of pouch I saw, yes.

3 Q That was on April 20th?

4 A That's correct.

5 Q What was the first part of the conversation that
6 you had with Mr. Scrimo at that time? Explain it to the
7 jury.

8 A I took the spelling of his name, correct spelling
9 of his name, his address. I asked him his age. Prior to
10 that I introduced myself and Detective Cole. I indicated
11 to him that I was the detective he had spoken to on the
12 phone and we sat down.

13 Q Then what happened?

14 A He told me that he had understood that we were
15 looking to speak to a big, bald-headed guy that was in
16 Y.L. Childs on Tuesday night.

17 I said to him, Well, we are talking about a week
18 ago Tuesday night; correct? He said, Yes, a week ago
19 Tuesday night. He said he had stayed out a little bit
20 late that night. His wife was just getting over him
21 having been out that late.

22 I asked him if he knew Ruth. He said, Yes, I knew
23 Ruth. He knew her for between one to two years from the
24 bars. He described her as a drinker and he was a drinker
25 and that's how they knew each other.

People - Det. McHugh - Direct

1 Q Did he call her by a particular name?

2 A She was also known to him as Ruthless. He had
3 started speaking to her about six months prior.

4 Q Did he make any comment to you about her
5 appearance?

6 A He thought she was younger than she appeared. He
7 also thought she was good looking. He told me she was the
8 kind of woman you had to be careful with though. If you
9 were in a bar having a drink with your wife, she could
10 just come up to you and say, hey, Paul, you want to see my
11 tits. So he thought she was a little bit of a liability
12 in that regard.

13 Q What happened next?

14 A I asked him about that Tuesday night. He told me
15 he had gone to -- I'm sorry. He had gone to Falcons Nest
16 some time between 8:00 and 8:30 to shoot darts on a
17 Tuesday night league. Darts is over about midnight. He
18 then went down to Granny O'Shea's which is right down the
19 street. I asked him why he did that. He just described
20 it as just another place to go after darts.

21 Q Did you ask him what he was drinking that night?

22 A I asked him what he was drinking during darts. He
23 indicated to me that he was on the Atkins diet so he was
24 drinking vodka and seltzer. We had a discussion about the
25 diet. I commented that it's a good thing to lose a couple

People - Det. McHugh - Direct

1 of pounds. It's healthy.

2 I asked him if he smoked and he told me he did not
3 smoke. I asked him if he knew anybody or recognized
4 anyone while he was at Granny O'Shea's. He said no. I
5 think he said he stayed there for one drink and then he
6 went to Y.L. Childs arriving there some time around
7 2:00 a.m.

8 When he was at Y.L. Childs, there were about eight
9 or ten people in the bar. I asked him if he knew anybody
10 in the bar. He said, yes, he saw Ruth there. He spoke to
11 her for five or ten minutes. I asked him about what. He
12 said he didn't remember because he had been drinking. The
13 only other person that he remembered in that bar, in Y.L.
14 Childs was a -- he called her a tomato who had a spike
15 through her chin.

16 He said he shot some darts and left about three
17 o'clock. I asked him if there was anyone else in the bar
18 at that time that resembled his appearance, perhaps they
19 have you confused with someone else. He said, no, he was
20 the only big, bald-headed guy in the bar at that time.

21 Left about three o'clock, walked home down Main
22 Street. I asked him if he had seen anybody, you know, any
23 cars, any suspicion people, anybody on the street, were
24 any of the bars open as he went past, any of the stores.
25 He said, no, he didn't see anything out of ordinary and he

People - Det. McHugh - Direct

1 went right home.

2 Q Did you ask him if he stopped anywhere on the way
3 home?

4 A I asked him if he had stopped in any bars or
5 stores. He said he walked straight home.

6 Q Then what happened?

7 A He said to me, You know, Detective, I wish I could
8 help or remember more, but who knew that she was going to
9 go home and get herself killed.

10 I then asked him about the bars in Farmingdale in
11 general, who he knew from the bars. He said he knew Ross,
12 the bartender from Falcon's Nest. At Granny O'Shea's, the
13 bar was run by the owner's daughters. He really didn't
14 say anything about the Downtown or Y.L. Childs.

15 I asked him about the dart league, the Tuesday
16 night dart team at the Falcon's Nest. He told me the
17 names of the people on the team, Frank DeFalco, who is one
18 of the owners of the Falcon's Nest; a woman named Irene; a
19 guy named John, he didn't know his last name, a long
20 haired guy; a guy named Jerry Hannon who he had just found
21 out recently was the stepson of Ruth; and a girl named
22 Denise. I believe he hadn't seen Jerry Hannon for about a
23 month or so.

24 He told me that a friend of his by the name of
25 Keith Wilson who was a corrections officer had been up in

People - Det. McHugh - Direct

1 Ruth's apartment at one time and that Keith Wilson told
2 him that Ruth was into witchcraft, the Pagans, and that
3 she turned tricks.

4 At that point he pointed out the window of the
5 command bus to a nursery school which was just outside the
6 door and said, Detective, see that nursery school there --
7 I didn't even know that Ruth lived up there -- I used to
8 take my kid to that school every day. He told me he last
9 spoke to Ruth about six months ago. That's about it for
10 our discussion then.

11 Q Did he mention anything about her being a relative
12 of White Funeral Home?

13 A Right, she had told him -- he believed she had
14 told him that she was White's daughter and that she lived
15 over the funeral home. That was about a year ago.

16 At that point we were done talking. I told him,
17 you know, if anything else comes up, if you remember
18 anything else or anything else, you know, please give me a
19 call.

20 I was done speaking to him. I did not want him at
21 that time to think that he was a suspect, so before he
22 left I had the case file in the trailer, on top of the
23 case file --

24 MR. CHAMBERLAIN: I object to the statement that
25 I did not want him --

People - Det. McHugh - Direct

1 THE COURT: Sustained. The jury should disregard
2 the last statement by the detective.

3 Q Just tell us what you did.

4 A I took some files from the box. On top of the
5 files was a picture of a gentleman by the name of Jeff
6 Johnson, a male black from the Farmingdale area.

7 I told Mr. Scrimo, I want you to take a look at
8 this picture. I'm not saying this gentlemen is involved,
9 this investigation is still in it's early stages, we would
10 just like to see if you know this guy.

11 I showed him the picture of Jeff Johnson and he
12 told me, Yes, I know him, He used to live over the
13 Shamrock Bar, He's a drug dealer and I see him sometimes
14 down on Route 109.

15 MR. BIANCAVILLA: May we have this marked?

16 THE COURT: Yes, 87, I believe.

17 MR. BIANCAVILLA: Yes.

18 (Whereupon, the above-mentioned item was
19 marked as People's Exhibit 87 for identification
20 only.)

21 COURT OFFICER: People's 87 for identification.
22 Would you like it shown to the witness?

23 MR. BIANCAVILLA: Please.

24 Q Detective, you're being shown what has been marked
25 as People's 87 for identification. Do you recognize that?

People - Det. McHugh - Direct

1 A Yes, I do.

2 Q What you recognize that to be?

3 A It's the photograph of Jeffrey Johnson that I
4 showed to Mr. Scrimo.

5 Q After you showed him the photograph of Jeffrey
6 Johnson, what did he say to you?

7 A That he knew him, he recognized him, that he used
8 to live over the Shamrock Bar, that he was a drug dealer
9 and that he used to see him down on Route 109.

10 Q How did you leave off with Mr. Scrimo at that
11 point?

12 A I again asked him if anything else came up, if he
13 heard anything, you know, to give us a call, and we said
14 good bye.

15 Q Now, did there come a time when you again
16 interviewed John Kane?

17 A Yes.

18 Q On what date did that occur?

19 A That's on May 2nd, 2000.

20 Q Where did that interview occur?

21 A At police headquarters in Mineola.

22 Q As part of that interview did John Kane provide
23 you with a DNA sample?

24 A Yes, he did.

25 Q Did there come a time when Mr. Scrimo was

People - Det. McHugh - Direct

1 arrested?

2 A Yes.

3 Q And he was transported to the Nassau County
4 Homicide Squad?

5 A Yes, he was.

6 Q Were you part of the team that went out to arrest
7 him?

8 A No, I was not.

9 Q When was the first time you came into contact with
10 Mr. Scrimo after he was arrested?

11 A When he arrived at my office at 12:40 a.m. on May
12 3rd.

13 Q Did you interview Mr. Scrimo at that time?

14 A I interviewed him at 1:00 a.m.

15 Q Please describe to the jury what transpired at
16 1:00 a.m. in the Homicide Squad?

17 A I introduced myself again. He remembered having
18 met me the week prior. I introduced Detective Parpan who
19 was also in the room with me. I told him that -- he said,
20 You got the wrong guy, it's a mistake.

21 I said, Before we talk, I understand you were
22 given your rights, Do you understand your rights, Are you
23 willing to speak to me without an attorney? He said, Yes.
24 He said, But I know you don't have to give me my rights
25 there was some court decision. I said, That's not true,

People - Det. McHugh - Direct

1 don't believe what you read in the newspaper.

2 He said, I've -- I already spoke to you once, I
3 told you what happened that Tuesday night.

4 Detective Parpan asked him, Well, please tell me what
5 happened Tuesday night.

6 He told us that he had gone to darts, darts is
7 between 8:00 and 12:00 at the Falcon's Nest. He then went
8 to Granny O'Shea's. He then went to Y.L. Childs. He saw
9 Ruth at Y.L. Childs, spoke to her for five to ten minutes,
10 once again, he couldn't recall about what, and that he
11 walked home at about 3:00 a.m.

12 We asked him, Please go into a little more detail,
13 Let's go through the evening's events from bar to bar. He
14 described, once again, going to darts at Falcon's Nest.
15 He described the people that were on the team, Frank
16 DeFalco; Irene; John, a long haired guy; I don't think he
17 mentioned Jerry Hannon at that time. He had shot darts.
18 He then went down to Granny O'Shea's, another place, for
19 just a change of scenery. He had one drink there.

20 We asked him, Did you see anybody there that you
21 recognized or were familiar with? No, he did not. He
22 then went to Y.L. Childs. At Y.L. Childs, he saw Ruth,
23 spoke to her, once again, he didn't recall about what and
24 said that was the only person that he knew in the bar.

25 I reminded him that the first time I had spoke to

People - Det. McHugh - Direct

1 him he mentioned the girl with the spike through her face.

2 He said, Oh, yes, she was there.

3 He had then walked home, believing he got home
4 about 3:00 a.m., also down Main Street. Once again I
5 asked him, Did you see anybody, Did you make any stops,
6 Were any stores open, bars open. No, went straight home.

7 Q What happened then?

8 A He said, I -- I helped you guys. I came to you,
9 you know, to speak to you.

10 Detective Parpan said, You didn't come to us, You
11 knew that we were looking to speak to you, It's been a
12 week since we first started investigating this case, A
13 week later, you call us, That's not helping, That's not
14 you coming to us, You knew we were going to look to speak
15 to you as the big, bald-headed guy.

16 He said, No, that's not true, I wanted to help.

17 We had some discussions about Ruth. He said that
18 Ruth was an alcoholic. He was an alcoholic. He didn't
19 remember a lot of the details of that night because he had
20 been drinking.

21 We asked him how much he had been drinking that
22 night while we were speaking to him. He said he had
23 six pints and we asked him, Well, how much did you have on
24 the Tuesday night a week prior. He said he probably had
25 about three more that night.

People - Det. McHugh - Direct

1 We said, Well, you don't seem drunk or intoxicated
2 to us, You are responsive to our questions, You have no
3 problem understanding what we are asking of you and
4 speaking about.

5 He said, Well, I'm scared sober, I had, you know,
6 a gun pointed in my face.

7 Q What happened then?

8 A I would like to review Detective Parpan's notes.

9 MR. BIANCAVILLA: Sure.

10 Q By the way, when this interview was being
11 conducted, were you taking notes or was Detective Parpan?

12 A Detective Parpan was.

13 MR. CHAMBERLAIN: May we have a time line
14 established?

15 THE COURT: Time of day?

16 MR. CHAMBERLAIN: No. This interview started at
17 1:00 a.m. from what I heard. The question is how far
18 along were they.

19 THE COURT: You'll have an opportunity on
20 cross-examination to address that point,
21 Mr. Chamberlain.

22 Q Have you reviewed the notes, Detective?

23 A Not yet.

24 Q Okay.

25 A Detective Parpan indicated to Mr. Scrimo that he

People - Det. McHugh - Direct

1 had received, meaning Parpan, had received the two
2 telephone calls from Mr. Scrimo when he had called the
3 office back on the 20th.

4 MR. CHAMBERLAIN: Detective, could I ask you --

5 MR. BIANCAVILLA: Judge, I object to this.

6 MR. CHAMBERLAIN: I want to know where he's at in
7 the notes.

8 THE COURT: Excuse me. Excuse me. The detective
9 is entitled to refresh his recollection by looking at
10 notes, if they do refresh his recollection. Where he
11 is, is of no moment at this point. You'll certainly
12 have an opportunity to go through it completely on
13 cross-examination.

14 Q Please continue, Detective.

15 A Detective Parpan and I explained to Mr. Scrimo
16 that, you know, we have been working on this case for a
17 period of time now and we have spoken to a lot of people
18 in the Farmingdale area. We have done an extensive
19 canvass. Some of these businesses have cameras in them 24
20 hours a day for security reasons. Those cameras are
21 equipped with clocks, you know, so we look at these things
22 during the course of our investigation. Now, is it
23 possible that on your way home that night you may have
24 stopped some place?

25 Q How did he respond to that?

People - Det. McHugh - Direct

1 A He put his head down. He sat there for a couple
2 of moments, appeared to be getting nervous, and he said, I
3 went to 7-Eleven for beer and cigarettes.

4 We said, What kind of beer? He said, That's not
5 important. What kind of cigarettes? He said, That's not
6 important.

7 We said, You don't smoke, Why would you need
8 cigarettes? He said, Sometimes I smoke.

9 What are you going to do with beer at five o'clock
10 in the morning? I was going to take to home.

11 What are you going to do with beer at five o'clock
12 in the morning? I'm an alcoholic, That's what alcoholics
13 do. I don't remember a lot of things because I drink.

14 Q What happened next?

15 A We told him that he was lying, that many of the
16 things that we had discussed now in the early stages of
17 our second interview were obviously not true. We just
18 asked him to speak the truth.

19 He said, I am speaking the truth, I am trying to
20 help you, I called you.

21 We told him again, You didn't call us, You knew we
22 were looking to speak to you, That's not why you called.
23 You are a suspect in this case, we told him, We
24 interviewed the people at Y.L. Childs, We know what was
25 going on between you and Ruth.

People - Det. McHugh - Direct

1 He said, All right, I kissed her. We said, It was
2 lot more than a kiss, It was described to us as
3 mouth-to-mouth, tongue-to-tongue, You never mentioned any
4 of that to us, You are a suspect.

5 I would like to look at the notes again.

6 Q Sure.

7 What happened at that point, Detective?

8 A We told him, When an issue is raised that you are
9 unable to answer or you won't answer, you use your
10 alcoholism as a crutch. You have selective memory.

11 He said -- we told him we have evidence at this
12 point in this investigation that puts you at that
13 apartment.

14 He said, No, that's wrong. He says, Christian, a
15 fellow he knew who is a bouncer at the Downtown, told him
16 that Fran and Ruth left the downtown that night and that
17 Fran had seen Ruth arguing with a big, bald-headed guy.
18 Both Christian and Fran know him, Mr. Scrimo, so it
19 couldn't be him.

20 We told him that story is wrong. You don't have
21 your details and facts correct on that.

22 Detective Parpan then said to him, Paul, nothing
23 is a secret when more than one person knows about it.

24 He again dropped his head, thought about that for
25 a couple of minutes, couple of moments, and said, John,

People - Det. McHugh - Direct

1 you should speak to John.

2 We said who is John? He said, John, the guy I
3 told you about. I said, The only time you mentioned
4 anyone named John is from the dart's team at Falcon's
5 Nest. We asked you who were you out with that night and
6 you never mentioned John. He said, Yes, I did. We said,
7 No, you didn't. And we went back over the details as he
8 had described them of the stops at the different bars.

9 He said, John is a guy you should talk to. We
10 said, Well, we will be. He said, I walked home with John.
11 We split up. Then we said you went to 7-Eleven? He said,
12 Maybe I went to 7-Eleven. Well, where did John go? I
13 don't know where John went. At that point we took a
14 break.

15 Q About what time is it at that point in the
16 interview?

17 A 3:35 in the morning.

18 Q How long was the break for?

19 A About 45 minutes.

20 Q During the course of this conversation, did
21 Mr. Scrimo have anything to eat or did he drink anything?

22 A He had water. He was offered coffee, however, he
23 declined, and he was taken to the bathroom at that point.

24 Q Then what happened after the break?

25 A We resumed the interview at about 4:20 a.m. When

People - Det. McHugh - Direct

1 we went back in, we asked him about John. We told him
2 John's last name was Kane. He said he was a guy that he
3 knew from darts and from the bar, Kane, John, was also an
4 alcoholic.

5 We asked him what John's relationship was with
6 Ruth and he said, I don't talk about other people. We
7 asked him, well, do you have a relationship with Ruth? He
8 said, No, I don't.

9 We asked him some more questions about John, if he
10 knew where John lived. I don't believe he said he knew
11 where John lived. We asked him what John, you know, did
12 for a living. He thought he was some type of carpenter's
13 helper. What kind of guy was he? He said he was just a
14 guy he knew from the bar that was an alcoholic.

15 We told him we knew that he and John had gone to
16 Ruth's apartment that night, that we had evidence along
17 those lines, and he indicated to us, no, that was not
18 true, he had not.

19 We went over that story with Christian the bouncer
20 having seen him -- him saying that he had seen him that
21 evening. We told him we knew that wasn't true. We -- you
22 know, we had spoken to the witnesses. We knew what
23 happened relative to the back of the Downtown. We told
24 him he was facing a murder charge and that he could get 25
25 to life for that and the truth was the best way to go and

People - Det. McHugh - Direct

1 he should answer our questions truthfully.

2 Q What did he say at that point?

3 A At that point he said, I have been truthful, I
4 helped you, you know, sometimes I don't remember things
5 because of my drinking. At that time we took another
6 break.

7 Q How long was that break for?

8 A That break was at 5:10, so we were in there for 50
9 minutes. We came out at 5:10. Other detectives went in
10 and spoke to him for a period of time.

11 Q Who are those other detectives that went in?

12 A Detective Cole and Detective Cereghino.

13 Q Prior to them going in, did you have conversation
14 with them?

15 A Yes.

16 Q Without telling us what the conversation was, did
17 there come a time that Detective Cole and
18 Detective Cereghino came out?

19 A Yes.

20 Q Did you and Parpan go back in?

21 A Yes.

22 Q Tell the jury what happened then?

23 A Went back in about 7:00 a.m., once again, asked
24 him to tell the truth. He said that his son had spoken to
25 the police and had told them the truth and his son wound

People - Det. McHugh - Direct

1 up in jail. He wanted his attorney to tell his side of
2 the story. At that point we stopped our questioning and
3 shortly after that I believe he called his wife.

4 Q About what time did you finish with that
5 interview?

6 A About 7:15 in the morning.

7 MR. BIANCAVILLA: Thank you, Detective.

8 Judge, at this point we would offer what has
9 been marked for identification as People's 86 and 87
10 into evidence.

11 THE COURT: Please show it to Mr. Chamberlain.

12 MR. CHAMBERLAIN: Voir dire?

13 THE COURT: Yes, Mr. Chamberlain.

14 VOIR DIRE EXAMINATION

15 BY MR. CHAMBERLAIN:

16 Q Detective, with respect to People's 86, it's not a
17 police department shot, a mug shot, it's a Newsday shot;
18 is that correct?

19 A It's a Newsday shot.

20 Q Were you aware that this was being taken?

21 MR. BIANCAVILLA: Objection.

22 Q At the time it was taken?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: I'm not sure of the relevancy.

25 Sustained.

People - Det. McHugh - Direct

1 MR. CHAMBERLAIN: I'm not sure what the relevancy
2 of the picture is, Judge, at this point.

3 THE COURT: Is that the nature of an objection;
4 is that what you are saying?

5 MR. CHAMBERLAIN: I'm trying to find out whether
6 this photograph was by pre-arrangement.

7 MR. BIANCAVILLA: Objection.

8 THE COURT: Sustained.

9 Just ask questions, Mr. Chamberlain.

10 Q The question is, were you aware this photograph
11 was going to be taken?

12 MR. BIANCAVILLA: Objection.

13 THE COURT: I'll permit it.

14 MR. BIANCAVILLA: Judge, it's voir dire on the
15 photograph.

16 THE COURT: I know.

17 A The question is was I aware that the photograph
18 was going to be taken? No.

19 Q The mug shot, was this photograph taken from an
20 active file in the Farmingdale command post?

21 MR. BIANCAVILLA: Objection.

22 THE COURT: Sustained.

23 This is a voir dire with respect to the
24 photograph, Mr. Chamberlain.

25 Q Was this the photograph that you showed to the

People - Det. McHugh - Direct

1 defendant that day?

2 A The photo of Jeff Johnson, yes.

3 Q Where did this come from?

4 MR. BIANCAVILLA: Objection.

5 THE COURT: Sustained.

6 MR. CHAMBERLAIN: I have no objection to the
7 Johnson photograph. I would object on the basis of
8 relevancy to the Newsday photograph, unless I have
9 some offer of proof.

10 MR. BIANCAVILLA: I will do it at the bench, if
11 you would like.

12 THE COURT: Come forward, Counsel.

13 Step down, Detective.

14 (Whereupon, the following took place at the
15 bench outside of the hearing of the jurors and
16 defendant.)

17 THE COURT: Mr. Biancavilla?

18 MR. BIANCAVILLA: Yes, Judge, if you recall the
19 testimony of Francine Quinn, after she said that she
20 did not pick him out in the lineup two days later on
21 the 5th, she saw a Newsday article depicting a
22 photograph of detective --

23 THE COURT: Yes, I recall the testimony.

24 MR. BIANCAVILLA: This is the photograph that was
25 published in Newsday on that day. That's the

1 People - Det. McHugh - Direct
2 relevancy of it. That's why I was offering it.

3 THE COURT: Anything further?

4 MR. CHAMBERLAIN: Nothing further.

5 THE COURT: All right. Your objection is
6 overruled.

7 MR. CHAMBERLAIN: That objection is withdrawn
8 based upon that statement.

9 THE COURT: We'll mark them both in evidence
10 without opposition.

11 (Whereupon, the following took place in open
12 court.)

13 (Whereupon, People's Exhibits 86 and 87,
14 previously marked for identification, were marked
15 and received in evidence.)

16 COURT OFFICER: People's 86 and 87 received in
17 evidence.

18 (Whereupon, the witness resumed the witness
19 stand.)

20 MR. BIANCAVILLA: Judge, may I display that for
21 the jury?

22 THE COURT: Yes.

23 CONTINUED DIRECT

24 BY MR. BIANCAVILLA:

25 Q Detective, I am going to display People's 86 for
the jury.

People - Det. McHugh - Cross

1 Does that photograph fairly and accurately depict
2 the appearance of the defendant at the time of his arrest,
3 at the time of his interview?

4 A Yes.

5 Q And with respect to People's 87, is that the
6 photograph of Jeff Johnson that you showed to the
7 defendant while you were interviewing him on April 20th?

8 A Yes.

9 MR. BIANCAVILLA: Thank you. I have no further
10 questions for Detective McHugh.

11 THE COURT: Mr. Chamberlain?

12 CROSS-EXAMINATION

13 BY MR. CHAMBERLAIN:

14 Q Detective, with respect to the photograph of Jeff
15 Johnson that was just exhibited, you didn't -- did that
16 photograph come from an active file of an investigation in
17 that area?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: Sustained.

20 Q Did you tell the defendant that that was an active
21 investigation of a suspect in that area?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained.

24 Q What did you tell the defendant with respect to
25 that photograph?

People - Det. McHugh - Cross

1 A That I am not saying this gentlemen is involved in
2 anything, that the investigation is still in it's early
3 stages and I would like to see if you recognize him.

4 Q But you indicated he was a suspect, did you not?

5 MR. BIANCAVILLA: Objection.

6 THE COURT: I'll permit that.

7 A No.

8 Q Well, you indicated he was somebody you were
9 interested in, in connection with the investigation;
10 right?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: I'll permit that.

13 A Could I hear the question again, please.

14 THE COURT: Read back the question.

15 (Whereupon, the court reporter read back the
16 requested question.)

17 A No.

18 Q You were asking this person, the defendant, if he
19 knew Mr. Johnson; is that correct?

20 A If he recognized the photo, yes.

21 Q Did you explain why you were asking if he
22 recognized the photograph?

23 A No.

24 Q You're showing him a mug shot, you're asking him
25 if he recognized a man, and no further explanation; is

People - Det. McHugh - Cross

1 that what you are telling us?

2 A That's correct.

3 Q Where did you get that mug shot from, Detective?

4 MR. BIANCAVILLA: Objection.

5 THE COURT: Sustained.

6 Q Now, Detective, with respect to the Newsday
7 photograph --

8 MR. CHAMBERLAIN: May I have that,

9 Mr. Biancavilla?

10 Can I put that on the screen, please?

11 MR. BIANCAVILLA: Sure.

12 THE COURT: Mr. Chamberlain, would you like the
13 detective to come down to the well? I don't think he
14 can see.

15 Q Do you recall the photograph, Detective?

16 Come on down.

17 A Can I go?

18 THE COURT: Yes.

19 A Yes, I do.

20 Q It's correct that when this photograph was taken
21 the defendant was wearing a jacket; is that correct?

22 A He has a jacket on, yes.

23 Q So it would be impossible to identify this
24 defendant by tattoos on his arms because his arms were
25 covered; is that right?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: Sustained.

3 Q Is this the photograph that Miss Quinn said she
4 identified the defendant from; is that your testimony?

5 MR. BIANCAVILLA: Objection.

6 THE COURT: Sustained.

7 Q Did you have a conversation with Francine Quinn
8 concerning this photograph?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: I'll permit that.

11 A Yes.

12 Q And did she tell you -- was that after she had
13 appeared at a lineup?

14 A Yes.

15 Q And at the lineup she was unable to identify the
16 defendant from five people sitting -- seven or so people
17 in front of her; is that right?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: Sustained as to form.

20 Q Was Miss Quinn able to identify the defendant at
21 the lineup?

22 A She identified no one.

23 Q Was she able to pick the defendant out?

24 MR. BIANCAVILLA: Objection. Asked and answered.

25 THE COURT: Last time.

People - Det. McHugh - Cross

1 Q Was she asked to identify --

2 THE COURT: Wait, Mr. Chamberlain, you asked a
3 question.

4 MR. CHAMBERLAIN: I'll withdraw the question,
5 Judge.

6 THE COURT: Okay.

7 Q Do you know what she was asked at the lineup?

8 A Yes.

9 Q What was she asked at the lineup?

10 A To view the lineup and let us know if she
11 recognized anyone and if she recognized anyone to let us
12 know what number.

13 Q Wasn't she asked if she could recognize a person
14 she said she saw outside the back entrance to Captain
15 Andy's on the early morning hours of April 12th, 2000?

16 A I don't know if I spoke to her during the lineup
17 in regards to that background information.

18 Q Well, you subsequently had a conversation with her
19 about this photograph that appeared in Newsday?

20 A Yes.

21 Q Did she tell you she could now identify him
22 because she saw a tattoo?

23 A No.

24 Q What did she tell you with respect to identifying
25 him from this photograph?

People - Det. McHugh - Cross

1 A That the gentleman in that photograph was the same
2 man that she had seen at the back door of Ruth's apartment
3 and he was the same man that had just left in the company
4 of Ruth from Y.L. Childs on the night of occurrence.

5 Q After she saw the photograph did she tell you how
6 she identified him from the photograph when she couldn't
7 identify him from the lineup?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Sustained.

10 Q Did she tell you what in the photograph enabled
11 her to identify the defendant that she could not identify
12 from the lineup.

13 MR. BIANCAVILLA: Same objection.

14 THE COURT: You were fine until you added the
15 extra part. You can't use compound questions.

16 Sustained.

17 Q Did she tell you what in this photograph enabled
18 her to identify the defendant?

19 A Seeing him again.

20 Q Just seeing him again?

21 A Seeing him again in that photograph.

22 Q Seeing his face?

23 A Yes.

24 Q That's it?

25 A Yes.

People - Det. McHugh - Cross

1 Q Detective, you were the investigating detective on
2 this homicide, were you not?

3 A Yes, I was.

4 Q In connection with that, did you have the crime
5 scene secured and then evidence collected?

6 A Yes, I did.

7 Q Do you recall how many items of evidence were
8 collected from the crime scene?

9 A No, I do not.

10 Q Do you have a record of that anywhere?

11 A The records would be in the crime scene work
12 sheets, yes.

13 Q If I tell you the records indicate 36 items, would
14 that refresh your recollection?

15 A I don't know.

16 Q After the items, whatever the number was, were
17 collected, what was done with them?

18 A Some of the items would have been forwarded to the
19 Scientific Investigation Bureau.

20 Q For what purpose?

21 A Evidentiary purposes, forensics, latent
22 fingerprints.

23 Q Anything else?

24 A I would have to know what the specific item is
25 that you are talking about.

People - Det. McHugh - Cross

1 Q Well, your crime scene report indicates a whole
2 series of examinations for forensics, do they not?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Don't read from something not in evidence,
6 Mr. Chamberlain.

7 MR. CHAMBERLAIN: I'm not reading.

8 THE COURT: You can ask the question but don't
9 make reference to something not in evidence.

10 Q What other examinations were done with respect to
11 the evidence besides latents?

12 A DNA, hair, fibers, other things, depending on the
13 type of evidence.

14 Q Tool marks?

15 A Tool marks.

16 Q Let's stick with tool marks for a minute. Were
17 any tools submitted for evaluation?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: If he knows.

20 A Yes.

21 Q What was submitted for evaluation?

22 A A leatherman tool.

23 Q That was the tool taken from the defendant on his
24 arrest on May 3rd, three week later?

25 A Yes.

People - Det. McHugh - Cross

1 Q What about the apartment that the victim was found
2 in, were any tools collected in that apartment?

3 A No.

4 Q Were there scissors, were there any scissors,
5 knives or tools in that apartment to your knowledge?

6 A Knives, I would think. Tools and scissors, I
7 don't have any knowledge of.

8 Q Did you direct any of your crime scene detectives
9 to collect any tools from that apartment for evaluation?

10 A Evaluation for?

11 Q For examination, any forensic evidence, tool
12 marks?

13 Detective, you had a ligature cord --

14 MR. BIANCAVILLA: Objection.

15 THE COURT: That was a question, Mr. Chamberlain.
16 Do you understand the question?

17 THE WITNESS: Could I have it read back?

18 THE COURT: Yes.

19 (Whereupon, the court reporter read back the
20 requested question.)

21 THE COURT: Sustained.

22 Ask another question.

23 Q Detective, there was a ligature around the
24 victim's neck when she was found; is that correct?

25 A That's correct.

People - Det. McHugh - Cross

1 Q And that ligature was a cut cord of some type;
2 right?

3 A Yes.

4 Q Did you direct the collection of any tools from
5 the crime scene that may have caused that cut?

6 MR. BIANCAVILLA: Objection.

7 THE COURT: Sustained as to form.

8 Q Other than the tool taken from the defendant three
9 weeks later, were any other tools submitted to tool
10 mark -- the tool mark section of SIB, the Scientific
11 Investigation Bureau for examination?

12 MR. BIANCAVILLA: Objection, as to form.

13 THE COURT: I am going to overrule it.

14 A No.

15 Q Now, in connection with your examination, did you
16 have occasion to speak to a coworker of the defendant --
17 coworker of the victim -- I'm sorry -- by the name of
18 Carolyn Daly?

19 A I have spoken to Carolyn Daly, yes.

20 Q Did Carolyn Daly tell you in sum and substance
21 that the victim had complained about being stalked by a
22 police officer?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained.

25 Q What did Carolyn Daly tell you with respect to

People - Det. McHugh - Cross

1 your investigation of this homicide?

2 MR. BIANCAVILLA: Objection.

3 THE COURT: It's hearsay.

4 MR. CHAMBERLAIN: It's part of his investigation.

5 MR. BIANCAVILLA: It's all hearsay.

6 MR. CHAMBERLAIN: What, if anything, he did with
7 respect to this investigation --

8 THE COURT: Mr. Chamberlain --

9 MR. BIANCAVILLA: Can we do this at the bench?

10 THE COURT: There's no need to.

11 Sustained.

12 MR. BIANCAVILLA: Thank you.

13 MR. CHAMBERLAIN: Your Honor, at this time --

14 THE COURT: Would you like to break at this
15 point?

16 MR. CHAMBERLAIN: I would, yes.

17 THE COURT: Ladies and gentlemen, at this point
18 we are going to break for lunch.

19 Again, do not discuss the case amongst
20 yourselves or with anyone else. Keep an open mind.
21 Do not form or express any opinions until the entire
22 case has been completed.

23 Do not read or listen to any accounts of the
24 case should they be reported in the media. Do not
25 visit or view any place or premises that have been

People - Det. McHugh - Cross

1 mentioned.

2 You are not to permit any party to discuss the
3 case with you or attempt to influence you, and you
4 must promptly report to the Court any violation
5 thereof.

6 Have a nice lunch. We'll see you at two
7 o'clock.

8 (Whereupon, the sworn jurors exited the
9 courtroom.)

10 THE COURT: Detective, do not talk to anybody
11 about the evidence or your testimony in this case.

12 THE WITNESS: Yes, sir.

13 THE COURT: See you at two o'clock.

14 (Whereupon, the witness was excused from the
15 witness stand.)

16 THE COURT: Counsel, we'll see you at two
17 o'clock. This may be a good time to go see
18 Judge Honorof.

19 MR. CHAMBERLAIN: Yes, Judge.

20 (Whereupon, a luncheon recess was taken.)

21 A F T E R N O O N S E S S I O N

22 THE CLERK: Case on trial continues.

23 All parties present. The jurors are not present
24 at this point.

25 People ready?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Ready.

2 THE CLERK: Defendant ready?

3 MR. CHAMBERLAIN: Ready.

4 MR. BIANCAVILLA: Judge, I have something to set
5 forth on the record. I guess I shouldn't be surprised
6 by this, but at 12:00 Mr. Chamberlain and I went
7 downstairs. I say I shouldn't be surprise by this
8 given the history of this case and what has transpired
9 during the course of this trial.

10 When we went downstairs to Judge Honorof
11 regarding the transcript of testimony which Judge
12 Honorof took, or supposedly had taken, during his
13 interview of two witnesses provided to him during the
14 defense of a bail reduction hearing.

15 I was surprised to learn that, although Judge
16 Honorof said he did conduct such a hearing in
17 chambers, that he did not have a court reporter
18 present when he took testimony from these two
19 individuals.

20 Now, I spoke to District Attorney Bill Dempsey
21 during lunch and it was Assistant District Attorney
22 Dempsey's understanding that when this procedure was
23 going to be conducted by Judge Honorof that there was
24 going to be a court reporter present and there was
25 going to be a transcript of what was transpiring

Proceedings

1 because, according to Assistant District Attorney
2 Dempsey, he was expressly precluded from, number one,
3 being present during the time these individuals were
4 interviewed by Judge Honorof and questioned by Judge
5 Honorof, and, number two, was not even advised when
6 these witnesses were going to be presented to Judge
7 Honorof.

8 Clearly that creates a problem for the People and
9 puts the People at a disadvantage during the course of
10 this trial should this Court permit whoever those
11 witnesses are to be called to testify regarding
12 whatever it is they are going to testify for.

13 First of all, we are not even conceding their
14 testimony, if they are called, would be admissible at
15 this particular trial.

16 I just want the record to reflect that, number
17 one, the proceeding was conducted before Judge
18 Honorof and that Judge Honorof did not have a court
19 reporter present when he questioned these individuals
20 and then came out on the record and reduced bail in a
21 murder case.

22 THE COURT: Mr. Chamberlain, is there anything
23 you wish to add?

24 DEFENSE ATTORNEY: Judge, Mr. Dempsey was not
25 present and I was not present. The procedure, as I

Proceedings

1 understood it, was that he would do this either in
2 camera or -- I believed it would be on the record. I
3 didn't know until just now, along with
4 Mr. Biancavilla, that it was not, but he did indicate
5 that he spoke with these witnesses in camera in
6 chambers and a recording was not made, but I don't see
7 how that effects anything here as far as the testimony
8 of these witnesses or should effect them.

9 MR. BIANCAVILLA: Judge, again, I'm not looking
10 for a ruling from the Court now. I'm just bringing
11 this to the Court's attention.

12 My appeals bureau is basically investigating
13 right now, number one, whether or not we have
14 standing to ask that the Court preclude their
15 testimony because of that, and, number two, whether
16 or not there are grounds to make a bail application
17 at this time. I'll know by the end of the day where
18 we stand legally on that ground.

19 THE COURT: Counsel, we are missing two jurors.
20 We'll have to wait a few minutes.

21 MR. BIANCAVILLA: Fine. Thank you.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 (Whereupon, the following took place in
25 chambers outside of the hearing of the jury and

Proceedings

1 defendant.)

2 THE COURT: Mr. Biancavilla, after you made your
3 record with respect to the sealed proceeding, I spoke
4 to Judge Honorof and Judge Honorof has indicated to me
5 that, actually, it was in the courtroom and it wasn't
6 in chambers, therefore, he had no recollection at that
7 point. He sealed the courtroom and what he did was at
8 that point he sealed the record too.

9 MR. BIANCAVILLA: My question is was there a
10 transcript.

11 JUSTICE HONOROF: I have just read it, of the
12 proceeding. It was unsealed, for whatever purpose you
13 care to use, other than a criminal prosecution of the
14 witnesses who gave this testimony.

15 MR. CHAMBERLAIN: Judge, it was my request to
16 have it unsealed. These are my witnesses.

17 JUSTICE HONOROF: Then certainly your application
18 is granted.

19 MR. CHAMBERLAIN: I want that to prepare my
20 witnesses for examination and that -- if, and as of
21 when, I put those witnesses on the stand.

22 JUSTICE HONOROF: There was one.

23 MR. BIANCAVILLA: My point is, now that it's
24 unsealed, it's a public record and we are entitled to
25 it.

Proceedings

1 THE COURT: That's correct, Mr. Biancavilla.

2 MR. CHAMBERLAIN: But I'm asking it remain sealed
3 until I decide to put those witnesses on the stand and
4 at that time I will present it as standard Rosario
5 material.

6 THE COURT: Mr. Chamberlain, you are not making
7 application at this point to unseal the record; is
8 that what you are telling me?

9 MR. CHAMBERLAIN: I am making application -- I
10 don't know whether Judge Honorof intended to seal it
11 from myself as the presenting --

12 JUSTICE HONOROF: So that my purposes are clear,
13 I intended to seal it so as to protect the
14 constitutional rights of the witness against criminal
15 prosecution while making what I needed to, in terms of
16 a thorough -- thorough examination of the strengths
17 and weaknesses of the People's case in order to be
18 fully informed for the purpose of granting a bail
19 application.

20 MR. BIANCAVILLA: I understand.

21 MR. CHAMBERLAIN: Judge, for that limited
22 purpose, so it would be sealed as to the People?

23 MR. BIANCAVILLA: My point is once it's unsealed,
24 it becomes a public record and I am entitled to a copy
25 of that transcript.

Proceedings

1 MR. CHAMBERLAIN: I am going to request that
2 sealing remain.

3 JUSTICE HONOROF: Here is what I am going to do.
4 I don't want to insert myself into Judge Brown's case.
5 I have made my record for sealing the case clear
6 today. I am turning the sealed records over to Judge
7 Brown for whatever use he cares to make of them.

8 MR. CHAMBERLAIN: May I ask one question here?
9 It was my recollection there were two witnesses
10 presented.

11 JUSTICE HONOROF: There only appears to be one
12 witness in this transcript. If there were --

13 MR. CHAMBERLAIN: My recollection is there were
14 two. I just got a phone call, by the way, that
15 indicated one of those witnesses thought there was a
16 transcript.

17 JUSTICE HONOROF: There's a transcript of one of
18 the witnesses.

19 MR. BIANCAVILLA: Judge, my only other question
20 to you, most respectfully, did you make notes during
21 that testimony?

22 JUSTICE HONOROF: That I did not.

23 MR. BIANCAVILLA: Thank you.

24 JUSTICE HONOROF: If it turns out there's another
25 transcript, it's Judge Brown's to do with what he

Proceedings

1 wishes. I didn't recall this one, frankly.

2 MR. CHAMBERLAIN: I think they would have been
3 the same afternoon.

4 JUSTICE HONOROF: Then it's probably the same
5 reporter. Just check with the reporter, but it's now
6 Judge Brown's. Gentlemen, good luck, both of you.

7 MR. BIANCAVILLA: Thank you.

8 MR. CHAMBERLAIN: I appreciate it.

9 THE COURT: So at this point I have a sealed
10 record that was delivered to me by Judge Honorof and
11 let's proceed.

12 MR. BIANCAVILLA: I withdraw my prior comments
13 and ask they be stricken from the record.

14 THE COURT: Do you object to that,
15 Mr. Chamberlain?

16 DEFENSE ATTORNEY: Yes, I have no objection is
17 the answer to that.

18 THE COURT: To Mr. Biancavilla striking those
19 remarks.

20 MR. BIANCAVILLA: Everything that was said out on
21 the bench prior to us coming back here.

22 THE COURT: We will strike that from the record.

23 MR. CHAMBERLAIN: Judge, as I understood his
24 ruling, they were sealed for the purpose of protecting
25 the witnesses from any prosecution. Since those are

Proceedings

1 my witnesses, I would like to be able to have that to
2 prepare my witnesses for direct on my case, if I put
3 them on.

4 MR. BIANCAVILLA: Judge, my only argument is that
5 once that record is unsealed, it becomes a public
6 record and both the People, if I want it, may pay for
7 that transcript. I'm entitled to a copy of that
8 transcripts as a public record. It can't be unsealed
9 for one party only.

10 Whether or not the witnesses are protected from
11 criminal prosecution is an issue that's not before
12 this Court and will be an issue that can be raised by
13 those witnesses if and when any criminal prosecution
14 occurs in terms of Judge Honorof's authority to give
15 them whatever immunity he claimed to have authority
16 to give them.

17 MR. CHAMBERLAIN: I would respectfully disagree
18 with that last statement. You can seal -- under the
19 applicable provisions, either party can move for a
20 sealing order. In this case the district attorney
21 moved for a sealing order and got it, not only who the
22 witnesses were but what they said.

23 MR. BIANCAVILLA: We did not.

24 MR. CHAMBERLAIN: You moved for a sealing order
25 with respect to the two witnesses at the jail who in

Proceedings

1 the year 2000 --

2 THE COURT: That has nothing to do with this.
3 That's apples and oranges at this point. I am just
4 interested in the facts before us now.

5 MR. CHAMBERLAIN: I'm just arguing he said if
6 it's unsealed --

7 THE COURT: That's pursuant to a Criminal
8 Procedure Law statute.

9 Mr. Chamberlain, as you are aware, under 240.45
10 sub 2 of the Criminal Procedure Law, if you intend to
11 call a witness, you have to provide any written or
12 recorded statement made by any person other than the
13 defendant whom the defendant intends to call as a
14 witness at the trial, and which relates to the
15 subject matter of the witnesses' testimony.

16 MR. CHAMBERLAIN: Yes, I do, Judge. As a matter
17 of fact, not only do I understand that, but your
18 Honor, at conference, indicated you wanted me to
19 provide specificity as to what the witness will --

20 THE COURT: You'll have to make an application at
21 some point when you indicate you want to make an
22 application to unseal. But at that point, it's a
23 public record and you have to provide it pursuant to
24 the Criminal Procedure Law, to the assistant district
25 attorney.

Proceedings

1 MR. BIANCAVILLA: I think it's beyond that. I
2 don't have to wait for him to give it to me and call
3 his witnesses. Once this Court enters an unsealing
4 order, it becomes an independent record and I can get
5 it independently of Mr. Chamberlain.

6 THE COURT: Is that correct?

7 MR. BIANCAVILLA: The day you unseal that, I will
8 ask the court reporter, whoever it may be, to provide
9 me with a copy of that transcript, once you unseal it.
10 I don't have to wait for Mr. Chamberlain.

11 MR. CHAMBERLAIN: I think the problem here is
12 terminology. Judge Honorof, loud and clear, said that
13 record was only sealed for the purposes of preventing
14 prosecution.

15 THE COURT: But it's sealed, nevertheless, and
16 there's no application before me to unseal at this
17 point. Judge Honorof resealed the record and that's
18 where it stands, Mr. Chamberlain. If you are making
19 an application, that's fine. I'll be glad to hear it
20 and give the People an opportunity to be heard.

21 MR. CHAMBERLAIN: My application is that these
22 are witnesses that were presented for the purpose of
23 testifying to the issue of the People's chief witness
24 being a drug seller, a pusher. Those statements were
25 taken in camera without my being present. At this

Proceedings

1 point I'm asking it be unsealed.

2 THE COURT: Mr. Biancavilla?

3 MR. BIANCAVILLA: As long as I get a copy, he can
4 unseal it.

5 THE COURT: Based upon your application,
6 Mr. Chamberlain, and, apparently, no opposition by the
7 People, I will unseal the record.

8 MR. CHAMBERLAIN: All right.

9 THE COURT: Let's proceed, Counsel.

10 MR. BIANCAVILLA: I would like to know the name
11 of the court reporter and the witness in the record,
12 Judge.

13 THE CLERK: Eileen Hyland, September 27, 2000.

14 MR. BIANCAVILLA: The name of the witness?

15 THE COURT: I'm not sure. I haven't read it yet.

16 Charles Ball, B-A-L-L, Nassau County.

17 Counsel, are we ready to proceed?

18 MR. BIANCAVILLA: Yes.

19 MR. CHAMBERLAIN: May I see the transcript?

20 THE COURT: You have to order it. I am not
21 permitted to give you the transcript, Mr. Chamberlain.

22 MR. CHAMBERLAIN: Judge, we are in the middle of
23 the trial. I'm trying to prepare witnesses.

24 THE COURT: Mr. Chamberlain, that is the rule. I
25 have unsealed the record. Right now this record has

Proceedings

1 been sealed. It's like any other record. You are
2 required to order it from a court reporter like
3 Mr. Biancavilla is about to do. That's why I put on
4 the record the date of September 27th, 2000, the court
5 reporter and the witness, and you can get a copy of
6 the transcript just like Mr. Biancavilla.

7 MR. CHAMBERLAIN: May I have the court reporter's
8 name?

9 THE COURT: Eileen Hyland. The court clerk will
10 provide it to you.

11 (Whereupon, the following took place in open
12 court.)

13 COURT OFFICER: Jury entering.

14 (Whereupon, the sworn jurors entered the
15 courtroom and resumed their respective seats.)

16 THE CLERK: Do both sides stipulate that all
17 sworn jurors are present and seated properly?

18 MR. BIANCAVILLA: Yes.

19 MR. CHAMBERLAIN: Yes.

20 THE COURT: Good afternoon, ladies and gentlemen.
21 We are ready to continue.

22 Bring the detective back in.

23 (Whereupon, the witness resumed the witness
24 stand.)

25 THE CLERK: Detective, you are reminded you are

Proceedings

1 still under oath.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: You may inquire, Mr. Chamberlain.

4 MR. CHAMBERLAIN: Thank you.

5 CONTINUED CROSS

6 BY MR. CHAMBERLAIN:

7 Q Detective, you were the investigating detective in
8 this case; is that right?

9 A Yes, I was.

10 Q The first thing you did in connection with your
11 investigation was to have the crime scene evidence
12 collected; is that right?

13 A I guess you could call it one of the first things.

14 Q Did you have photographs of the crime scene taken?

15 A Yes.

16 Q Do you recall how many?

17 A No, I do not.

18 Q I'll show you some records here and ask you if
19 these records refresh your recollection.

20 THE COURT: Mark them.

21 (Whereupon, the above-mentioned item was
22 marked as Defendant's Exhibit M for identification
23 only.)

24 COURT OFFICER: Defendant's M for identification.

25 Would you like it shown to the witness?

People - Det. McHugh - Cross

1 MR. CHAMBERLAIN: Would you please.

2 Q Do they refresh your recollection as to the
3 photographs taken?

4 A This record indicates that 63 photographs were
5 taken.

6 Q Now, I want to show you Defendant's N for
7 identification?

8 THE COURT: We'll mark it.

9 (Whereupon, the above-mentioned item was
10 marked as Defendant's Exhibit N for identification
11 only.)

12 COURT OFFICER: Defendant's N for identification.
13 Would you like it shown to the witness, Counsel?

14 MR. CHAMBERLAIN: Please.

15 Q Could you tell us what Defendant's N represents,
16 Detective?

17 MR. BIANCAVILLA: Objection.

18 THE COURT: Sustained.

19 MR. CHAMBERLAIN: I'm not asking for the details
20 on it, just what type of records are those.

21 MR. BIANCAVILLA: Objection.

22 THE COURT: That is actually reading from the
23 document, Mr. Chamberlain.

24 Q Are those records of the collection of evidence,
25 Detective?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: Are you asking the detective if it
3 refreshes his recollection as to something?

4 Q Detective, do you recall how many items were
5 seized without reviewing that item, that document?

6 A No, I do not.

7 Q Does that refresh your recollection?

8 MR. BIANCAVILLA: Judge, I am going to object.
9 Items of what?

10 MR. CHAMBERLAIN: Items of evidence.

11 THE COURT: Items of evidence collected; is that
12 the question?

13 MR. CHAMBERLAIN: Yes.

14 A I would have to review the forms.

15 THE COURT: Certainly, you can look at them,
16 Defendant's N.

17 A There's 36 items on that list.

18 Q After the evidence was collected it was sent to
19 various departments for analysis; is that correct?

20 A That would be the procedure.

21 Q I am going to show you what I ask to be marked as
22 Defendant's O for identification?

23 THE COURT: O.

24 (Whereupon, the above-mentioned item was
25 marked as Defendant's Exhibit O for identification

People - Det. McHugh - Cross

1 only.)

2 COURT OFFICER: Defendant's O for identification.

3 THE COURT: Mr. Chamberlain, I understand you
4 want to mark three additional documents. Do you want
5 to mark them Defendant's P, Q and R.

6 MR. CHAMBERLAIN: Correct, Judge.

7 (Whereupon, the above-mentioned items were
8 marked as Defendant's Exhibits P, Q and R for
9 identification only.)

10 COURT OFFICER: Defendant's P, Q and R, marked
11 for identification.

12 MR. CHAMBERLAIN: May I have them?

13 Q Defendant's P, do you recognize this document?

14 COURT OFFICER: This is O.

15 Q Defendant's O, Detective, do you recognize this
16 document?

17 A It's a scene examination --

18 MR. BIANCAVILLA: Objection. Not responsive.

19 THE COURT: Just a yes or no.

20 Q Do you recognize it, Detective?

21 A No.

22 Q You don't?

23 A No.

24 Q Were latent fingerprints taken from the scene at
25 your direction?

People - Det. McHugh - Cross

1 A Latent fingerprints were recovered from the scene,
2 yes.

3 Q As you sit here, do you recall where those
4 fingerprints were taken from?

5 A Some of them, yes.

6 Q Do you recall all of them?

7 A I'm not certain if I recall all of them, no.

8 Q Will you look at Defendant's O and tell us if that
9 document refreshes your recollection as to where the
10 latent fingerprints were taken?

11 A I can tell you where some of them were recovered
12 without looking and then, if you want me to look, I can
13 look at it.

14 Q You can't tell us about all of them?

15 A I may be telling you about all of them but I
16 wouldn't know until I reviewed the document.

17 Q Tell us what you can recall first?

18 A Some latent fingerprints were recovered from a
19 photo album that was on the kitchen table at the scene and
20 I believe some latents were recovered from the wall in the
21 living room. Also a latent fingerprint was recovered from
22 a CD case in a stereo cabinet in the living room.

23 Q In addition to the ones recovered, there were
24 other areas of the apartment that were dusted for prints,
25 were there not?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection. He has no personal
2 knowledge of that, and, if he knows, it's hearsay.

3 THE COURT: He could, theoretically, have been
4 present.

5 Detective, were you present when the area was
6 dusted for fingerprints?

7 THE WITNESS: No, I was not.

8 Q Did you direct the taking of evidence from that
9 apartment as the investigating detective in this case?
10 Did you not direct all evidence to be collected in this
11 case?

12 MR. BIANCAVILLA: Judge, he wasn't present. He
13 just said that.

14 MR. CHAMBERLAIN: He didn't have to be.

15 THE COURT: Overruled.

16 That question, you can answer.

17 A I don't direct the recovery of evidence.

18 Q Whatever they recovered is what you get, is that
19 it?

20 A The scene is processed by Crime Scene people
21 trained to do that, yes.

22 Q So you had no knowledge of where they were going
23 to look for prints or what prints -- what areas they were
24 going to dust; is that right?

25 A They are the experts in that area and they process

People - Det. McHugh - Cross

1 the scene accordingly.

2 Q Will you tell us what areas they dusted?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Q Do you recall?

6 THE COURT: He just answered that question for
7 you, Mr. Chamberlain.

8 MR. CHAMBERLAIN: He said he didn't direct them,
9 Judge. I'm asking what areas were --

10 THE COURT: I asked him if he was present and he
11 wasn't present.

12 Q Did you receive a record as the investigating
13 detective of what areas were dusted?

14 MR. BIANCAVILLA: Again, objection, Judge.

15 THE COURT: Sustained.

16 MR. CHAMBERLAIN: Judge, the completeness of this
17 investigation is an issue here.

18 MR. BIANCAVILLA: I would ask this not be before
19 the jury.

20 THE COURT: Objections are made. Rulings are
21 made. You have to ask a proper question,
22 Mr. Chamberlain. I'm not saying you can't ask these
23 questions. I don't want colloquy.

24 Q As you sit here, would that record in front of
25 you, Defendant's O, indicate the areas of the apartment

People - Det. McHugh - Cross

1 that were dusted for prints?

2 MR. BIANCAVILLA: Objection.

3 THE COURT: Sustained. You would have to read
4 from the record, Mr. Chamberlain, from the document.

5 Q As the investigating, were you not interested in
6 where prints were sought in this apartment?

7 MR. BIANCAVILLA: Objection.

8 THE COURT: Sustained.

9 Q I will show you Defendant's P for identification.
10 Have you had a chance to read that?

11 A Yes.

12 Q Did you direct a soda can used by the defendant be
13 examined for DNA evidence?

14 MR. BIANCAVILLA: Objection.

15 THE COURT: I will permit the detective to answer
16 that question. Overruled.

17 A Yes, I did.

18 Q And do you have the results of that examination?

19 A Do I, no.

20 Q Did you ever receive them?

21 A Did I ever receive a report on DNA results on that
22 soda can?

23 Q Yes.

24 A No.

25 Q Do you recall where the soda can -- the soda can,

People - Det. McHugh - Cross

1 do you know where the soda can came from?

2 A Yes.

3 Q Where would that be?

4 MR. BIANCAVILLA: Objection.

5 THE COURT: I'll permit that.

6 MR. BIANCAVILLA: Judge, unless he was present
7 for its recovery --

8 THE COURT: He says he knows.

9 MR. BIANCAVILLA: It could be subject to hearsay,
10 Judge.

11 THE COURT: Detective, did you -- you were at the
12 scene; is that correct?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: When you were at the scene, did you
15 observe a soda can there?

16 THE WITNESS: No, I did not

17 Q Detective, was there any soda can on the list of
18 evidence collected from the scene?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 Q I show you Defendant's R for identification.

22 Detective, did you, in addition to ordering or
23 directing a collection of evidence at the victim's
24 apartment, direct a collection of evidence from her
25 vehicle -- the vehicle belonging to the victim?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: I'll permit that.

3 A Yes, I did.

4 Q Did that -- did you -- did you receive a report
5 back from the collection of that evidence?

6 A Yes, I did.

7 Q Do you recall all the items collected?

8 A No, I do not.

9 Q Is that document -- was that the only item
10 collected?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: Sustained.

13 Q After reading that, does that refresh your
14 recollection of the items collected?

15 MR. BIANCAVILLA: Objection. There's no item he
16 collected.

17 THE COURT: You have to lay a foundation.

18 MR. CHAMBERLAIN: He said he received a report.

19 THE COURT: Ask the detective if he went to the
20 automobile.

21 Q Detective, as the investigating detective, you
22 assign other people to do jobs and you get the material
23 back for analysis or review in connection with your
24 investigation; is that not a fact?

25 MR. BIANCAVILLA: Objection, Judge.

People - Det. McHugh - Cross

1 THE COURT: I'll permit that.

2 A I have other detectives that assist me and I do
3 assign them to tasks.

4 Q And you ask for a crime scene evaluation of
5 articles in the victim's vehicle; is that correct?

6 A That's correct.

7 Q And you received a report back of those articles;
8 is that correct?

9 A That's correct.

10 Q And do you recall all the items that were
11 collected?

12 A No, I do not.

13 Q Does that document refresh your recollection?

14 A Can I review it?

15 Q Yes.

16 A I reviewed it. I see about 50 items on that list.

17 Q Was one of the items a zip-lock bag with stems and
18 buds?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 Q Did you receive back a report of an item of a
22 zip-lock bag of stems and buds?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained. Hearsay.

25 Q Did you -- did you -- did you cause a bag of -- a

People - Det. McHugh - Cross

1 Ziploc bag of stems and buds to be sent to SIB for
2 analysis?

3 A No.

4 Q Would you review the document, please, item 20?

5 MR. BIANCAVILLA: Objection.

6 THE COURT: Overruled.

7 Q Does that indicate --

8 MR. BIANCAVILLA: Judge, I object.

9 THE COURT: Sustained.

10 Q Does that refresh your recollection as to whether
11 or not that bag was sent to SIB for analysis?

12 A Yes.

13 Q And was it sent to SIB for analysis now that your
14 recollection is refreshed?

15 A Yes.

16 Q And did you get back an analysis as to that item?

17 A No.

18 Q When you did not get it back, did you follow up to
19 find out why you did not get it back?

20 MR. BIANCAVILLA: Objection.

21 THE COURT: Sustained.

22 Q Detective, are there any other crime -- other than
23 the documents that you have just been shown, any other
24 police department records concerning collection of
25 evidence in this case?

People - Det. McHugh - Cross

1 A I'm sure there would be.

2 Q Do you recall any other evidence that was
3 collected?

4 A No, I do not.

5 Q What about the ligature cord found around the
6 victim's throat?

7 MR. BIANCAVILLA: Is that a question.

8 Q Do you recall that item of evidence?

9 A Yes, I do.

10 Q That's not one of the 36 on the crime scene
11 collection report --

12 MR. BIANCAVILLA: Objection.

13 THE COURT: Sustained. Sustained.

14 Q What, if anything, did you do with that item,
15 Detective?

16 MR. BIANCAVILLA: Objection.

17 Q Did you direct anything --

18 THE COURT: First of all -- excuse me. You have
19 to wait for a ruling.

20 Sustained.

21 Q Did you direct anything be done with the wire
22 cord, Detective?

23 A At the scene?

24 Q At any time.

25 MR. BIANCAVILLA: Judge, objection.

People - Det. McHugh - Cross

1 THE COURT: At any time is sustained.

2 Q All right. At the scene, Detective did you direct
3 that anything be done with respect to the wire cord at the
4 scene?

5 A The cord was left on the victim. It was removed
6 from the scene on the victim to the morgue and it was
7 processed in accordance with procedures from there.

8 Q Did you direct any swabbing of the cord at the
9 scene?

10 A No.

11 Q Did you direct any oral swabs of the victim at the
12 scene before the body was removed to the morgue?

13 A No.

14 Q Did you direct any swabbing of the area around the
15 victim's neck where the cord was located?

16 A At the scene, we are talking about?

17 Q At the scene.

18 A No, I did not.

19 Q Now, Detective, after collection of evidence at
20 the scene, did you proceed in your investigation to
21 determine any people that had seen the victim shortly
22 prior to her death?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained as to form.

25 Q After collection of that evidence at the scene,

People - Det. McHugh - Cross

1 what did you do next in connection with your
2 investigation?

3 MR. BIANCAVILLA: Objection. The detective
4 testified he didn't collect evidence at the scene.

5 THE COURT: Sustained as to form.

6 Q After you supervised or directed or saw to the
7 collection of evidence at the scene, what, if anything,
8 did you do after that?

9 MR. BIANCAVILLA: Same objection, Judge. He
10 didn't do any of those three, according to his
11 testimony.

12 THE COURT: Overruled. I'll permit that.

13 MR. CHAMBERLAIN: Thank you.

14 A What did I do after the crime scene people
15 processed the scene, is that the question?

16 Q Yes.

17 A I met with the detectives that were assisting me
18 with the case, organized the canvass and started
19 interviewing witnesses.

20 Q And you testified here that you saw somebody by
21 the name of John Kane approximately three days later on
22 the 15th of April; is that correct?

23 A April 15, correct.

24 Q That was at his house?

25 A That was where he lived, yes.

People - Det. McHugh - Cross

1 Q Before you went see him, did you obtain any
2 information about John Kane prior to your going to see
3 him?

4 A I don't believe so, no.

5 Q Well, did you ascertain that he had been with the
6 victim the night prior to her death?

7 MR. BIANCAVILLA: Judge, I'm going to object.
8 It's hearsay.

9 THE COURT: Sustained.

10 Q What in your investigation led you to go to
11 John Kane's house on April 15th?

12 MR. BIANCAVILLA: Same objection, Judge.

13 THE COURT: As a result of information, you went
14 to John Kane's house?

15 THE WITNESS: Yes, your Honor.

16 THE COURT: Go on from there, Mr. Chamberlain.

17 Q Did that information include the fact that he was
18 known -- his name on the street?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: I am going to sustain it as to form.

21 Q What had you found out about John Kane in relation
22 to the victim prior to seeing him on April 15th?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: That's hearsay. You have to ask the
25 question properly.

People - Det. McHugh - Cross

1 Q You say you had obtained information about
2 John Kane prior to going to see him. Did that information
3 relate to contacts between Kane and the victim?

4 MR. BIANCAVILLA: Objection. Same basis, Judge,
5 for my objection.

6 THE COURT: Sustained.

7 Q When you went to see Kane, did he give you -- did
8 he -- did you ask him about the victim, Ruth Williams?

9 A I asked him if he knew her, yes.

10 Q What did he tell you?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: Sustained. Classic hearsay.

13 Q You say you asked him if he knew her. Did you ask
14 him anything else?

15 A I asked him how long he knew her.

16 Q Did you ask him anything else?

17 A I asked him where he knew her from.

18 Q And did you ask him when he had last seen her?

19 A Yes, I did.

20 Q What was advice did you get on that answer?

21 MR. BIANCAVILLA: Objection.

22 Q Did you get an answer --

23 THE COURT: Wait. Wait. Read the last question
24 back to he.

25 (Whereupon, the requested question was read back

People - Det. McHugh - Cross

1 by the court reporter.)

2 THE COURT: Sustained. I don't know what that
3 question means.

4 Q What answer did you get as to when John Kane had
5 last seen the victim?

6 MR. BIANCAVILLA: Objection.

7 THE COURT: Hearsay.

8 Q Detective, you indicated that John Kane was
9 wearing certain items of clothing on that day, the 15th of
10 April, 2000?

11 A Yes.

12 Q You didn't see any scratches on him; is that
13 right?

14 A No scratches.

15 Q Did you examine him for scratches specifically?

16 A Only as I was sitting across from him.

17 Q So if he had scratches on some part of his body
18 under his clothing, you would not have been able to see
19 it; is that a fair statement?

20 A That's a fair statement.

21 Q Will you describe what he looked like aside from
22 the clothing that he had on that day?

23 A His physical appearance?

24 Q Yes.

25 A He's about 5 foot 8, about 150 pounds. His hair

People - Det. McHugh - Cross

1 was long, I believe it was in the pony tail, and he had a
2 full beard.

3 Q When you say long hair, will you describe how long
4 it was?

5 A Pony tail that was just down below the shoulders.

6 Q How long was the beard?

7 A Maybe about 4 inches.

8 Q Was it a full beard including the upper lip as
9 well as lower lip?

10 A I don't recall whether he had a moustache or not.
11 I know he had a beard.

12 Q As a result of that conversation with Mr. Kane,
13 what, if anything, did you do next?

14 A Continued following leads, interviewing witnesses,
15 reviewing telephone records, gathering information,
16 processing that information as it was brought to my
17 attention.

18 Q Did you get any information as to John Kane?

19 A Yes.

20 Q Did he have any other name on the street besides
21 the name Kane?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained.

24 You're presupposing where it came from by asking
25 the question that way.

People - Det. McHugh - Cross

1 MR. CHAMBERLAIN: It was part of the
2 investigation, Judge.

3 THE COURT: I understand that.

4 MR. BIANCAVILLA: That doesn't make it
5 admissible.

6 Q Did you ascertain whether Mr. Kane was employed or
7 unemployed?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Sustained.

10 Q Was one of the witnesses you spoke to a person by
11 name of Jennifer DeRenzis?

12 A Yes.

13 Q Did she -- did you ask her about the person,
14 John Kane?

15 A I would have to review my notes concerning that
16 interview.

17 Q Do you have your notes with you?

18 A No, I do not.

19 THE COURT: Do you want that marked,
20 Mr. Chamberlain?

21 MR. CHAMBERLAIN: Yes.

22 THE COURT: That he will be Defendant's S.

23 (Whereupon, the above-mentioned item was
24 marked as Defendant's Exhibit S for identification
25 only.)

People - Det. McHugh - Cross

1 COURT OFFICER: Defendant's S for identification.

2 Would you like it shown to the witness?

3 MR. CHAMBERLAIN: Please.

4 A I reviewed that.

5 Q Are those the notes of your interview of her,
6 Jennifer DeRenzis on April 14th, the day before you saw
7 John Kane.

8 A It appears that my notes on that interview are
9 dated the 20th of April.

10 THE COURT: Mr. Chamberlain?

11 MR. CHAMBERLAIN: Yes, Judge.

12 THE COURT: Do you need a moment?

13 MR. CHAMBERLAIN: Yes, Judge.

14 THE COURT: Okay.

15 Q Did you also interview her on the 14th, Detective?

16 A Looks like the 16th.

17 Q The 16th of April?

18 A The 16th of April may have been when her
19 information was brought to my attention.

20 Q Did you testify before the grand jury about your
21 interview of Miss DeRenzis?

22 A I would have to review my testimony.

23 Q Whatever day it was, you say your notes indicate
24 you got the information -- you recorded the information on
25 the 16th received from some prior day; is that correct?

People - Det. McHugh - Cross

1 A I closed out the lead on the 20th. I received the
2 information on the 16th.

3 Q Detective, did Miss DeRenzis describe John Kane?

4 MR. BIANCAVILLA: Objection.

5 Q If you recall?

6 MR. BIANCAVILLA: Judge, same objection. Classic
7 hearsay.

8 THE COURT: If it can be responded to with a yes
9 or no, I'll permit it.

10 A The question, again?

11 Q Did she describe him to me?

12 A She described someone do me.

13 Q Did she use the name Kane or did she use the name
14 John D?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Sustained.

17 Q What name did she use in describing the person?

18 MR. BIANCAVILLA: Same objection.

19 THE COURT: Hearsay. Sustained.

20 Q The 4/20 you refer to on your notes, the notation
21 at the top of the page --

22 A I would have to see them.

23 MR. BIANCAVILLA: Objection.

24 THE COURT: You should not be reading from a
25 document that is not in evidence, Mr. Chamberlain.

People - Det. McHugh - Cross

1 Q Is there anything in this note that indicates this
2 was on 4/20?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Q Detective, you said you received -- you just said
6 you received, a minute ago, the information on the 20th of
7 April?

8 MR. BIANCAVILLA: Objection. That wasn't his
9 testimony. Please.

10 THE COURT: Ask the detective again.

11 Q I am going to show you the -- I'm going to tell
12 you to disregard the note at the top which is my
13 handwriting, Detective, and ask you if the lead sheet
14 tells you when you received that note on Miss DeRenzis?

15 THE COURT: You can ask if it refreshes his
16 recollection.

17 Q Does that refresh your recollection, Detective?

18 A Yes, it does.

19 Q And what was the date now that it's refreshed?

20 A April 16th.

21 Q Is that a 15th or 16th?

22 MR. BIANCAVILLA: Judge.

23 THE COURT: Don't read from the document please.
24 Sustained.

25 Q Detective, did you also interview somebody by the

People - Det. McHugh - Cross

1 name of Tom Hartman?

2 A Yes, I interviewed Mr. Hartman.

3 Q Did he describe a person he knew by the name of
4 John?

5 THE COURT: Again, that's hearsay,
6 Mr. Chamberlain.

7 Sustained.

8 You cannot elicit from this witness what someone
9 else told him.

10 MR. CHAMBERLAIN: Judge, this witness was the
11 investigating detective.

12 THE COURT: I understand exactly what he was,
13 Mr. Chamberlain, but the rules of evidence including
14 hearsay still apply.

15 Q Did you receive back latent fingerprints from the
16 collection of evidence at the crime scene, Detective?

17 A Yes, I did.

18 Q Will you tell us what prints were lifted from the
19 crime scene?

20 A You want a list of the fingerprints that were
21 lifted from the crime scene or do you want to know the
22 ones that were identified.

23 Q I want to know the ones that were identified first
24 and then --

25 A On the CD case in the stereo cabinet, the latent

People - Det. McHugh - Cross

1 of John Kane was identified off a CD case. In the photo
2 album, a latent fingerprint was identified belonging to a
3 John Marks, and, also in that same book, a latent
4 fingerprint was identified as belonging to a Steven
5 Schwartz(phonetic).

6 Q Did you identify who Marks and Schwartz were as
7 part of your investigation?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Sustained as to form.

10 Q Did you determine -- did you investigate how
11 Steven Schwartz' fingerprints got into the decedents
12 apartment?

13 A Yes, I did.

14 Q Will you tell us what that determination was?

15 MR. BIANCAVILLA: Objection. Same objection,
16 Judge.

17 THE COURT: Sustained.

18 Q When did you find out that Steven Schwartz'
19 fingerprints were in the deceased's apartment?

20 A The first week of the investigation, I was
21 notified there was a latent there. The identification of
22 that latent was just come accomplished prior to the start
23 of this trial.

24 Q What did you determine -- withdrawn.

25 The reason for the delay between the latent that

People - Det. McHugh - Cross
1 was developed on April 13th or 14th of 2000 --

2 MR. BIANCAVILLA: Judge, objection.

3 THE COURT: The reason for the delay is not
4 relevant, Mr. Chamberlain.

5 Q When did you first get Mr. Schwartz' fingerprints
6 on file in the Nassau County Police Department?

7 A I don't know.

8 Q If I tell you that -- was Mr. Schwartz --

9 MR. CHAMBERLAIN: I would like to have this
10 marked as Defendant's Exhibit T for identification.

11 (Whereupon, the above-mentioned item was
12 marked as Defendant's Exhibit T for identification
13 only.)

14 COURT OFFICER: So marked Defendant's Exhibit T
15 for identification.

16 MR. CHAMBERLAIN: Please show it to the witness.

17 Q Does that document refresh your recollection as to
18 when those fingerprints were on file with the Nassau
19 County Police Department?

20 A Yes.

21 Q What was the date?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: It would be reading from a document.
24 Sustained.

25 Q After your recollection is refreshed, can you tell

People - Det. McHugh - Cross

1 us the approximate date when the Nassau County Police
2 Department got Mr. Schwartz' fingerprints?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: I'll permit it.

5 A The fingerprint card is dated November of 2000.

6 Q Was Mr. Schwartz arrested for drug sales on that
7 date?

8 THE COURT: Sustained.

9 MR. BIANCAVILLA: Thank you, Judge.

10 THE COURT: Sustained.

11 Q Part of your investigation, Detective, did you
12 investigate the background of both Mr. Kane and the
13 victim?

14 MR. BIANCAVILLA: Objection.

15 Q And the defendant?

16 THE COURT: I'll permit that.

17 A What do you mean by background?

18 Q Well, what they did, whether they were employed,
19 what names they were known by, what their reputation was
20 in the community, whether they had any visible means of
21 support, whether they were married, had children, whether
22 they went to work every day, whether they spent a lot of
23 money in bars every night, whether they were known to be
24 drug users or sellers, that's what I mean?

25 MR. BIANCAVILLA: Judge, I counted 10 questions

People - Det. McHugh - Cross

1 there.

2 THE COURT: That was quite a compound question.

3 Sustained.

4 MR. CHAMBERLAIN: He asked me what I meant.

5 THE COURT: I understand but you can, with
6 specificity, tell him what you mean without asking 10
7 questions.

8 Ladies and gentlemen, we are going to take a
9 brief recess.

10 Do not discuss the case amongst yourselves or
11 with anyone else. Keep an open mind. Do not form or
12 express any opinions until the entire case has been
13 completed.

14 Do not read or listen to any accounts of the
15 case should they be reported in the media. Do not
16 visit or view any place or premises that have been
17 mentioned.

18 You are not to permit any party to discuss the
19 case with you or attempt to influence you, and you
20 must promptly report to the Court any violation
21 thereof.

22 (Whereupon, the sworn jurors exited the
23 courtroom.)

24 (Whereupon, a brief recess was taken.)

25 COURT OFFICER: Jury entering.

People - Det. McHugh - Cross

(Whereupon, the sworn jurors entered the courtroom and resumed their respective seats.)

THE CLERK: Both sides stipulate that all sworn jurors are present and are seated properly?

MR. CHAMBERLAIN: So stipulated.

MR. BIANCAVILLA: Yes.

THE COURT: Bring the detective back in.

(Whereupon, the witness resumed the witness stand.)

THE COURT: Mr. Chamberlain?

MR. CHAMBERLAIN: Thank you.

CONTINUED CROSS

BY MR. CHAMBERLAIN:

Q Detective, after you interviewed Kane on the 15th you again interviewed him on the 2nd of May; is that correct?

A That's correct.

Q And that interview took place at Nassau County headquarters?

A Yes.

Q Homicide Squad?

A Yes.

Q Was he picked up and brought into Homicide on that day?

A He came into the Homicide Squad with us, yes.

People - Det. McHugh - Cross

1 Q Was that interview conducted -- withdrawn.

2 Would you tell us approximately what time he
3 arrived at Homicide?

4 A I believe it was a little after 7:00 p.m.

5 Q Detective, do you have any notes as to when that
6 actually started that would refresh your recollection as
7 to the exact time?

8 A Of Mr. Kane's interview?

9 Q When he was brought in?

10 MR. BIANCAVILLA: Judge, he didn't say he needed
11 his recollection refreshed.

12 THE COURT: Detective, do you know the exact time
13 that you started this interview.

14 THE WITNESS: I believe it was 7:10 p.m.

15 Q Detective, that interview of Kane took place with
16 you an Detective Parpan; right?

17 A Yes.

18 Q And Detective Parpan was the one taking notes?

19 A Yes.

20 Q And you reviewed those notes to refresh your
21 recollection before testifying here?

22 MR. BIANCAVILLA: Which interview, Judge?

23 Q The interview of Kane.

24 A John Kane's interview on May 2nd, we are talking
25 about?

People - Det. McHugh - Cross

1 Q That's correct.

2 A With Detective Parpan, yes.

3 Q Now, you indicated that early the next morning you
4 started about 1:00 a.m., you started an interview of the
5 defendant, Scrimo, in Homicide; is that correct?

6 A That's correct.

7 Q Would it be fair to say that your interview of
8 Scrimo was based upon the information you obtained from
9 Kane?

10 A There were other things involved that that
11 interview was based on.

12 Q Your determination to go out and arrest Scrimo was
13 based upon what Kane had just told you, was it not?

14 A Not solely, no.

15 Q Do you remember testifying that that was the basis
16 for probable cause?

17 MR. BIANCAVILLA: Objection.

18 THE COURT: Sustained.

19 Q What other information did you have other than
20 Kane -- what Kane had just told you?

21 MR. BIANCAVILLA: Objection.

22 THE COURT: Sustained.

23 You are calling for hearsay.

24 MR. CHAMBERLAIN: He said there was other
25 information.

People - Det. McHugh - Cross

1 THE COURT: Yes.

2 Q What other evidence or information did your
3 investigation produce concerning Mr. Scrimo other than
4 what Mr. Kane had told you?

5 MR. BIANCAVILLA: Objection. Same basis, Judge.

6 THE COURT: Sustained.

7 Q Up until the time that Kane made certain
8 statements on the evening of May 2nd, you had conducted, I
9 take it, an interview, an examination of the victim's
10 relationship with whomever she had been seen with that
11 night; is that correct?

12 MR. BIANCAVILLA: Objection.

13 THE COURT: Sustained as to form.

14 I don't think I understand the question.

15 Do you understand the question, Detective?

16 THE WITNESS: No.

17 Q Your investigation concerned, of this homicide,
18 concerned who the victim had been with shortly prior to
19 her death; is that right?

20 MR. BIANCAVILLA: Judge, I am going to object to
21 that question.

22 THE COURT: I'll permit that.

23 Q Go ahead and answer that question.

24 A Part of my investigation had to deal with who she
25 was with just prior to her death, yes.

People - Det. McHugh - Cross

1 Q And that investigation indicated, among other
2 people, Kane, or a person fitting his description and the
3 defendant; is that correct?

4 MR. BIANCAVILLA: Objection, Judge. Again, it
5 calls for hearsay.

6 THE COURT: Sustained.

7 Q Did your investigation concern any relationship
8 between Scrimo and the victim?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: Sustained.

11 Q There were a number of bars in the vicinity of
12 Main Street in Farmingdale that were involved in this
13 investigation; is that correct?

14 A That's correct.

15 Q Would you name those bars please?

16 A Downtown, Falcons's Nest, Granny O'Shea's, Y.L.
17 Childs.

18 Q They are all in close proximity to each other?

19 A Yes.

20 Q Did you have any prior information about those
21 bars in connection with any arrests in 1998 for a
22 motorcycle gang called the Pagans?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained.

25 Q Did you investigate whether there was any history

People - Det. McHugh - Cross
1 of any of those bars in connection with drug
2 investigations and particularly cocaine?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Q Prior to picking Kane up on May 2nd --

6 MR. BIANCAVILLA: Objection to the
7 characterization.

8 THE COURT: Sustained as to the characterization.

9 Q Was Kane --

10 THE COURT: The testimony was that he was brought
11 in.

12 Q Was Kane picked up by homicide detectives and
13 brought into the Homicide Squad in Mineola?

14 MR. BIANCAVILLA: Again, objection.

15 THE COURT: Please don't characterize the
16 testimony.

17 Q How did Kane get into police headquarters from his
18 home in Farmingdale?

19 A We asked him --

20 MR. BIANCAVILLA: Objection. There's no
21 testimony he picked him up at his home.

22 THE COURT: Sustained as to his home.

23 Ask the question -- are you withdrawing the
24 question?

25 MR. CHAMBERLAIN: Yes, Judge, I am.

People - Det. McHugh - Cross

1 THE COURT: If you ask it properly, you can ask
2 it, Mr. Chamberlain.

3 Q Prior to Kane being in Nassau County Headquarters
4 on the evening of May 12th, had you investigated his
5 employment background?

6 A I had some information relative to his employment,
7 yes.

8 Q And what was that information?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: Sustained.

11 Hearsay, Mr. Chamberlain.

12 Q Can you tell this jury whether he was -- whether
13 he was employed in or about April of 2000?

14 MR. BIANCAVILLA: Objection.

15 THE COURT: The only way to get it is through
16 hearsay?

17 MR. CHAMBERLAIN: We have an investigating
18 detective in charge of a homicide.

19 MR. BIANCAVILLA: It's not an exception to the
20 hearsay rule, Judge, being a detective in a homicide
21 case. I've gone through Richardson. It's not there.

22 THE COURT: It's sustained, Mr. Chamberlain.

23 Q Independently of what Kane told you, did you make
24 any investigation as to where he might have been employed?
25 Did you make any other investigation?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: I'll let him answer that question.

3 A Is the question --

4 THE COURT: Did you make an investigation as to
5 where Mr. Kane was employed?

6 A Yes.

7 Q Did you check for any payroll records?

8 MR. BIANCAVILLA: Judge, I am going to object.

9 THE COURT: I'll permit this.

10 A I don't believe any payroll records existed.

11 Q Could you tell the jury of your investigation how
12 many days Kane had worked between let's say January 1st
13 2000 and April 12th, 2000?

14 MR. BIANCAVILLA: Objection.

15 THE COURT: Sustained.

16 Q Did you investigate his drinking background at
17 that point?

18 MR. BIANCAVILLA: Objection, Judge.

19 THE COURT: I will let this question be asked.

20 A He was known in the bars.

21 Q He was known in the bars as what?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained.

24 Q When you say he was known in the bars would you,
25 please, elaborate on that?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: Sustained.

3 Mr. Chamberlain, hearsay, the only way the
4 detective can get the information is from somebody
5 else telling him. Unless it's an exception to the
6 hearsay rule, it's hearsay.

7 Q Did you investigate whether Kane had a prior
8 sexual relationship with the victim prior to April 12th,
9 2000?

10 A Yes.

11 Q What did that investigation reveal?

12 MR. BIANCAVILLA: Judge --

13 THE COURT: That is hearsay.

14 Q Did you investigate any other relationship between
15 Kane and the victim?

16 A No.

17 Q Did you ever ask him -- determine whether he
18 shared cocaine with her?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 Q Did you make any determination as to when the last
22 time he had seen her prior to April 11th 2000 --

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained. Form.

25 Q Did you determine whether they had any financial

People - Det. McHugh - Cross

1 dealings, Kane and the victim?

2 MR. BIANCAVILLA: Objection, Judge.

3 THE COURT: Sustained.

4 Q You mentioned, Detective, that you heard the name
5 Ruthless in questioning the defendant in the early morning
6 hours of May 3rd; is that correct?

7 A Correct.

8 Q Had you heard that name before?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: I'll permit that.

11 A Yes, I had.

12 Q Where had you heard that name before?

13 A From people in the bars in Farmingdale.

14 Q What about the night before from John Kane?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Sustained.

17 Q You asked the defendant, according to your
18 testimony on direct, in the early morning hours of
19 May 3rd, about whether he had been kissing Ruth in the bar
20 the night before she was murdered; is that correct?

21 A That's correct.

22 Q Had you asked -- did you have any information from
23 Kane as to who had been kissing who the night before?

24 MR. BIANCAVILLA: Objection.

25 THE COURT: Sustained.

People - Det. McHugh - Cross

1 MR. CHAMBERLAIN: Withdrawn.

2 Q Were there any questions posed to Kane as to who
3 was kissing who the evening of May 2nd when you and Parpan
4 were questioning Kane?

5 MR. BIANCAVILLA: Objection again, Judge.

6 THE COURT: I'll let him answer if there's a
7 question posed.

8 Q Was there a question posed?

9 A A specific question posed about kissing?

10 Q Yes.

11 A No.

12 Q Do you want to review your notes -- Parpan's notes
13 is what you used to refresh your recollection as to that
14 interview?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: That's not the proper way to ask a
17 witness if he would like his recollection refreshed.

18 MR. CHAMBERLAIN: Withdrawn.

19 Q Do you have Parpan's notes in front of you,
20 Detective, from that interview, the Kane interview?

21 MR. BIANCAVILLA: Judge, he's talking about the
22 Kane interview. That's hearsay.

23 THE COURT: I will permit him to ask if he asked
24 a particular question of Kane but not the response
25 that came from it. If you want him to refresh his

People - Det. McHugh - Cross

1 recollection show him a document.

2 Q Do you have Parpan's notes?

3 A No.

4 THE COURT: Has that been marked?

5 MR. CHAMBERLAIN: No.

6 THE COURT: Defendant's U.

7 (Whereupon, the above-mentioned item was
8 marked as Defendant's Exhibit U for identification
9 only.)

10 COURT OFFICER: Defendant's U marked for
11 identification.

12 Show it to the witness, Counsel?

13 Q I think it's about page seven, Detective.

14 MR. BIANCAVILLA: Objection.

15 MR. CHAMBERLAIN: There is --

16 THE COURT: All right. All right. Overruled.

17 Q Does that refresh your recollection as to whether
18 there was any question about kissing?

19 A Yes, it does.

20 Q With your recollection refreshed, what is your
21 answer now?

22 A My recollection is that the question we asked him
23 was what was going on at the corner of the bar when you
24 were there.

25 Q And what was the answer?

People - Det. McHugh - Cross

1 THE COURT: Sustained.

2 Q What was going on, is that about kissing?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Q When you say your recollection -- the question
6 was, was there anything discussed about kissing?

7 MR. BIANCAVILLA: That wasn't the question,
8 Judge. Objection.

9 THE COURT: Actually, I believe that was the
10 question of Mr. Chamberlain. Overruled.

11 A My recollection, and the reason why I answered the
12 question that way, was that we had asked what was going on
13 in the corner of the bar while you were there.

14 Q Was that about kissing? Did you get a response --

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Mr. Chamberlain, one at a time.

17 DEFENSE ATTORNEY: All right, Judge.

18 Q When you asked -- you asked Kane what was going
19 on, that's when you got a response -- there was a response
20 about kissing; is that right?

21 MR. BIANCAVILLA: Objection.

22 THE COURT: That is the hearsay. Sustained.

23 Q How long was Kane in that interview room?

24 A Mr. Kane was interviewed for approximately two
25 hours.

People - Det. McHugh - Cross

1 Q And -- without telling us anything that Kane said
2 specifically in that two-hour period, would it be fair to
3 say that he denied any involvement in this for the first
4 hour and a half of that two hours?

5 MR. BIANCAVILLA: Objection.

6 THE COURT: That would be hearsay,
7 Mr. Chamberlain.

8 Q As a result of Kane's statement and some other
9 evidence, you decided to make an arrest of the defendant;
10 is that correct?

11 A That's correct.

12 Q And you sent out four -- what is it, Homicide sent
13 out four homicide detectives to make that arrest?

14 A That's correct.

15 Q And did they have information from Kane as to
16 where the defendant would be that particular Tuesday
17 night, the night of May 2nd into the early morning hours
18 of May 3rd?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 That's hearsay, what Mr. Kane told them.

22 Q Did you direct these detectives where to go to
23 make this arrest?

24 A Yes.

25 Q Where was that, Detective?

People - Det. McHugh - Cross

1 A Farmingdale area, specifically the area of the
2 Falcon's Nest bar.

3 Q You had information then from whatever source that
4 the defendant would be at the Falcon's Nest that
5 particular Tuesday night; right?

6 MR. BIANCAVILLA: Objection.

7 MR. CHAMBERLAIN: Withdrawn.

8 Q Detective, did you tell the detectives to wait
9 until the defendant was alone outside, walking home, or
10 did you tell them to go into the bar, the Falcon's Nest
11 and make the arrest?

12 A I didn't tell them how or where to effect the
13 arrest.

14 Q Well, you know if they had gone into the bar to
15 make the arrest, someone might have called relatives and
16 an attorney might have shown up; right?

17 MR. BIANCAVILLA: Objection, Judge.

18 THE COURT: Sustained.

19 Q When you sent these detectives out to arrest
20 Scrimo, was Kane still in police headquarters?

21 A Yes, he was.

22 Q He had come with the homicide detectives earlier
23 that evening?

24 A Yes, he did.

25 Q Did he say I would like to stay overnight?

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Objection.

2 THE COURT: Sustained.

3 Q Was he there voluntarily, Detective?

4 A Yes, he was.

5 Q And he was -- was he an overnight guest
6 voluntarily?

7 MR. BIANCAVILLA: Objection.

8 THE COURT: Sustained.

9 Q How long did he stay there, Detective?

10 A I believe he stayed until the next morning.

11 Q What time the next morning?

12 A I don't know the exact time that he left.

13 Q Might it be about eleven o'clock?

14 A Sometime in the morning. Eleven o'clock, could
15 be.

16 Q Detective, at that point you had certain
17 statements, without going into detail, from Kane that
18 indicated his claim that --

19 MR. BIANCAVILLA: Judge, objection. Again, this
20 is hearsay.

21 THE COURT: Mr. Chamberlain, please stay away
22 from the hearsay.

23 Sustained.

24 Q Without going into the detail as to what
25 information you had, did you have information

People - Det. McHugh - Cross

1 concerning --

2 MR. BIANCAVILLA: Judge, I am going to object
3 again. Just because it's not detailed doesn't make it
4 any less hearsay.

5 THE COURT: The objection is sustained as to
6 form.

7 Q Had Mr. Kane -- I'm not asking what he told you --
8 but he had told you that he had taken part -- or been --
9 either been involved in certain activity; is that correct?

10 MR. BIANCAVILLA: Objection.

11 THE COURT: Read that back to me.

12 (Whereupon, the requested question was read back
13 by the court reporter.)

14 THE COURT: That question makes no sense,
15 Mr. Chamberlain.

16 Sustained.

17 Q Did you make a determination at that time to let
18 Mr. Kane go?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 Q Did you tell Mr. Scrimo that Mr. Kane had told you
22 that he was involved -- that Kane had invited Scrimo up to
23 the apartment and that after a confrontation with the
24 victim, a verbal confrontation, Scrimo started to leave
25 and then Kane said stay and then Scrimo turned and

People - Det. McHugh - Cross

1 after -- went straight for the victim and strangled her,
2 did you tell Scrimo words to that effect?

3 MR. BIANCAVILLA: I don't understand the
4 question.

5 THE COURT: Wait. Mr. Chamberlain. You can ask
6 the question but I'm going to sustain as to form.
7 It's just not in proper form.

8 Q What did you tell Scrimo that Kane had told you?

9 MR. BIANCAVILLA: Judge, I'm going to object. I
10 don't believe there was any testimony that this
11 detective told Mr. Scrimo anything about what Kane
12 told him.

13 THE COURT: You can ask the question,
14 Mr. Chamberlain.

15 Q Detective, did you not tell us that you had, at
16 the end of that interview, that you had information from
17 his buddy, Kane, did you tell that to Scrimo?

18 A Information from his buddy, Kane, about what?

19 Q About what happened in the apartment?

20 A I don't believe that's my testimony, no.

21 Q Did that happen?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained as to form.

24 You can ask the question, Mr. Chamberlain.

25 Q What, if anything, did you tell Scrimo about Kane

People - Det. McHugh - Cross

1 when you were interviewing Scrimo in the early morning
2 hours of May 3rd?

3 A He was told that John Kane was in the Homicide
4 Squad and that John Kane had been interviewed.

5 Q Just been interviewed. You didn't tell him
6 anything else?

7 A Interviewed, and Kane had told us what had
8 happened up in the apartment, yes.

9 Q What did you tell him Kane had told you had
10 happened?

11 A I don't believe I went into the specifics.

12 Q Detective, did you make a determination to provide
13 immunity for John Kane in connection with this
14 investigation?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Sustained.

17 Q Kane was released or Kane went home on May 3rd,
18 2000?

19 MR. BIANCAVILLA: I am objecting to the
20 characterization of release.

21 MR. CHAMBERLAIN: I withdraw the release.

22 Q Kane went home on May 3rd, 2000.

23 A He left our office. I don't know if he went to
24 work or home. He left our office.

25 Q Was he working at that time?

People - Det. McHugh - Cross

1 A I said I didn't know if he went to work.

2 Q You know he wasn't working, don't you?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Sustained.

5 Q Did you interview him again after that, Kane?

6 A After what?

7 Q After May 3rd?

8 A Yes, I have spoken to him.

9 Q When was that?

10 A On several occasions. I don't know the exact
11 dates.

12 Q Were you present when he -- you testified before
13 the grand jury on -- withdrawn.

14 Were you present when he testified at a
15 preliminary examination on or about May 25th, 2000 in
16 district court?

17 A Was I present for his testimony?

18 Q Were you present? Did you bring him in? Did you
19 see him? Were you there?

20 MR. BIANCAVILLA: That's four questions.

21 THE COURT: One at a time, Mr. Chamberlain.

22 Q Detective, you understand I am asking do you
23 recall that date when he came in for a preliminary
24 examination in district court?

25 A Are you referring to a felony exam?

People - Det. McHugh - Cross

1 Q Yes?

2 A I recall there being a felony exam he was involved
3 in but I don't know the exact date.

4 Q I understand, but were you there?

5 A I think I was, yes.

6 Q Now, were you, as the investigating detective on
7 this homicide, consulted as to whether or not he would be
8 given immunity?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: Sustained.

11 Q Were there any discussions to your knowledge with
12 Kane concerning his testimony on that date?

13 MR. BIANCAVILLA: Objection.

14 THE COURT: I'll allow you to ask him if you
15 spoke to him on that date.

16 Q Did you speak to him on that date?

17 A On the day of the felony exam?

18 Q Yes.

19 A Yes.

20 Q Were there any discussions concerning his
21 action -- his testifying for the people under -- for the
22 People as a witness without waiving any immunity?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Sustained.

25 Q Were you present when he testified before the

People - Det. McHugh - Cross
1 grand jury on July 7th, 2000?

2 MR. BIANCAVILLA: Objection.

3 THE COURT: Sustained.

4 Come forward.

5 Detective, step out for a moment.

6 (Whereupon, the following took place at the
7 bench outside of the hearing of the jurors and
8 defendant.)

9 THE COURT: Mr. Chamberlain, these questions,
10 first, have to be asked of Mr. Kane during your
11 cross-examination.

12 MR. BIANCAVILLA: Not only that, Judge,
13 Mr. Chamberlain, as an officer of the court, knows
14 that the grand jury is a secret proceeding and
15 Detective McHugh would not be present while Mr. Kane
16 was testifying before the grand jury. I think that
17 comment is disingenuous.

18 DEFENSE ATTORNEY: There's nothing disingenuous
19 about it. I'm asking if he was present before --

20 MR. BIANCAVILLA: That wasn't your question.

21 THE COURT: I allowed you to ask if he spoke to
22 him on that date, but if you are getting into the
23 granting of immunity -- first of all, do you know who
24 grants immunity?

25 MR. CHAMBERLAIN: I know the DA, but I'm not

People - Det. McHugh - Cross

1 going to have the DA on the stand here. This is the
2 investigating detective on a homicide case.

3 THE COURT: Why don't you ask Mr. Kane?

4 MR. BIANCAVILLA: No. Call Assistant District
5 Attorney Dempsey.

6 THE COURT: Call Mr. Dempsey who handled the
7 case. You can call who you want, but there's certain
8 ways you're not going to get it in and this is one of
9 the ways.

10 MR. CHAMBERLAIN: If, in fact, this detective
11 took part in any discussions concerning this witness,
12 Mr. Kane, getting immunity, I think I am entitled.
13 It's his case --

14 THE COURT: Why is that relevant?

15 MR. CHAMBERLAIN: Why?

16 THE COURT: Yes, why is it relevant whether the
17 detective is involved or not?

18 MR. CHAMBERLAIN: Whether the detective is
19 involved --

20 THE COURT: Why?

21 MR. CHAMBERLAIN: It may be relevant to his
22 testimony. I have a right to ask why he took certain
23 steps.

24 THE COURT: I permitted you to question him with
25 respect to certain conversations, but I'm going to

People - Det. McHugh - Cross

1 limit it and I don't want you to keep going into it.

2 Anything further Mr. Biancavilla?

3 MR. BIANCAVILLA: No.

4 MR. CHAMBERLAIN: I respectfully except.

5 (Whereupon, the following took place in open
6 court.)

7 (Whereupon, the witness resumed the witness
8 stand.)

9 CONTINUING CROSS

10 BY MR. CHAMBERLAIN:

11 Q Detective McHugh, did you ever ask -- did you ever
12 make any determination as to whether or not Kane sold
13 cocaine?

14 MR. BIANCAVILLA: Objection.

15 THE COURT: Sustained.

16 Q Did you make an investigation as to whether there
17 was any money owed by the victim to Kane?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: He can answer that question.

20 A I am unaware of anything like that.

21 Q Did he make any investigation as to that?

22 A I was unaware of it so I couldn't make an
23 investigation.

24 Q Did you have any information or did you make any
25 investigation concerning money that Kane owed Ruth

People - Det. McHugh - Cross

1 Williams?

2 MR. BIANCAVILLA: Objection, Judge.

3 THE COURT: Sustained.

4 Q Detective, you've indicated here, with respect to
5 the statements you took from the defendant, that you had
6 certain information that was inconsistent with what he
7 told you; is that correct?

8 A What he told us that evening, yes.

9 Q When you say that evening, we are talking about
10 May 3rd, early morning hours of May 3rd?

11 A Right, yes.

12 Q Was there any videotape made of that session, that
13 interview of Mr. Scrimo?

14 A No.

15 Q And he was being interviewed, I think you said,
16 from 1:00 a.m. until he was brought in -- withdrawn.

17 He was brought in at 12:10 -- withdrawn.

18 He was being interviewed from 1:00 a.m. until
19 seven something in the morning?

20 A 1:00 a.m. until about 7:15 with some breaks in
21 between, yes.

22 Q One of those breaks, you and Parpan went out
23 and --

24 MR. BIANCAVILLA: Judge, I object to him calling
25 Detective Parpan by his last name.

People - Det. McHugh - Cross

1 THE COURT: You should use the proper title.

2 Q You and Detective Parpan -- is that what he
3 wants -- you and Detective Parpan went out and Detective
4 Cereghino and Cole went in and continued questioning the
5 defendant; right?

6 A Yes.

7 Q There was no videotape. Was there any audio tape
8 made of any of that?

9 A No.

10 Q Did you ever reduce any of that to writing and
11 have him sign it?

12 A No.

13 Q Did you -- so, basically, these -- what you are
14 testifying to is based upon your recollection after being
15 refreshed by Parpan's notes; is that right?

16 A My recollection of the events and the interview,
17 yes, and the notes.

18 Q And the interview was, a number up to four,
19 homicide detectives asking questions and getting -- and
20 getting certain answers that you testified to here; right?

21 MR. BIANCAVILLA: Objection. Form.

22 THE COURT: Sustained as to form,

23 Mr. Chamberlain.

24 Q There's nothing -- the form -- the actual
25 language, who was phrasing what, we don't have any of

People - Det. McHugh - Cross

1 that. We only have your recollection based on Parpan's
2 notes; is that right?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Detective, did you understand that
5 question?

6 THE WITNESS: No.

7 Q You can't tell us verbatim --

8 THE COURT: Excuse me.

9 MR. CHAMBERLAIN: I'll withdraw.

10 THE COURT: Rephrase it.

11 Q You can't tell us verbatim what you said that
12 night to Mr. Scrimo, can you, Detective?

13 A Not on all of it, no.

14 Q And you can't tell us what Parpan said, can you?

15 A Verbatim?

16 Q Verbatim.

17 A No.

18 Q And you can't tell us verbatim what the defendant
19 answered to whatever was said?

20 A Not to all the questions, no.

21 Q You certainly had the capability of audio taping
22 that night, did you not?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: Overruled.

25 A During that interview?

People - Det. McHugh - Cross

1 Q Yes.

2 A That's not our procedure.

3 Q I didn't ask you that, Detective. I said did you
4 have the capability?

5 A You mean is there equipment that would be used to
6 do that.

7 Q Yes.

8 A Yes.

9 Q And you also have the capability to videotape
10 statements, did you not?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: Overruled.

13 A Yes, there is equipment for that also.

14 Q Was there any discussion concerning a recent
15 decision, a court decision that indicated that you don't
16 have to give rights anymore? Yes or no, was there any
17 discussion concerning that during your interview of
18 Mr. Scrimo in the early morning hours of May 3rd?

19 A Yes.

20 Q By the way, you didn't read him his rights, did
21 you?

22 A No, I did not.

23 Q And Detective Parpan didn't, did he?

24 A No, he didn't.

25 Q And to your knowledge, neither did Detectives Cole

People - Det. McHugh - Cross

1 or Cereghino read him rights?

2 A No, they did not.

3 Q So, as far as you know, his rights were read to
4 him only by Detective Dempsey, or so you were told by
5 Dempsey when he came in; is that right?

6 A His rights were given to him by Detective Dempsey,
7 yes.

8 Q The business about a recent court decision --

9 MR. BIANCAVILLA: Objection to the
10 characterization.

11 THE COURT: Business of recent court decision,
12 Mr. Chamberlain?

13 MR. CHAMBERLAIN: He indicated the subject came
14 up.

15 THE COURT: Your characterization, the business
16 of, that's no way to ask a question.

17 MR. CHAMBERLAIN: Thank you, Judge.

18 Q The discussion concerning a recent court decision,
19 did you bring that up?

20 A No, I did not.

21 Q Did Mr. Scrimo bring that up?

22 A Yes, he did.

23 Q Did he say where he had gotten it from?

24 A I believe he said the newspaper.

25 Q Are you testifying from memory now.

People - Det. McHugh - Cross

1 MR. BIANCAVILLA: Judge, I object to that.

2 THE COURT: I don't think we have a question.

3 MR. CHAMBERLAIN: The question was where he got
4 it from, Judge?

5 MR. BIANCAVILLA: He said the newspaper.

6 MR. CHAMBERLAIN: No. He said I believe, that's
7 what he said.

8 THE COURT: Let's not have colloquy, Counsel.

9 Q As you are sitting here, you are testifying that
10 he said the newspaper, or you're not sure?

11 A To the best of my recollection, he said the
12 newspaper.

13 Q Did you or Parpan say anything to correct that at
14 that point?

15 MR. BIANCAVILLA: Correct what, Judge?
16 Objection.

17 THE COURT: I'm not sure I understand,
18 Mr. Chamberlain.

19 Q He brought it up and he said, I understand from a
20 recent court decision you don't have to read me my rights
21 anymore; is that right?

22 A Yes.

23 Q And you believe he said he got it from the
24 newspaper. Did you correct that at that point?

25 A Yes, I said, That's not true and don't believe

People - Det. McHugh - Cross

1 what you read in the newspaper.

2 Q Do you recall Parpan saying we didn't comment on
3 that?

4 A I'm sorry.

5 Q Was Parpan with you the entire time that this
6 conversation about the -- the conversation about rights
7 was ongoing?

8 A Parpan was in the room with me, yes.

9 Q And Parpan said we didn't comment on this
10 statement about rights, would that refresh your
11 recollection as to whether there was any comment about the
12 newspaper or anything?

13 MR. BIANCAVILLA: Objection.

14 THE COURT: Sustained.

15 Q A few more questions, Detective. You were present
16 later on on May 3rd when there was a lineup.

17 A Yes.

18 Q And you viewed that lineup?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: What was the question?

21 (Whereupon, the court reporter read back the
22 requested question.)

23 MR. CHAMBERLAIN: Withdrawn.

24 Q Is it a fact, Detective, that you testified
25 previously under oath that you were not present at that

People - Det. McHugh - Cross

1 lineup.

2 MR. BIANCAVILLA: Objection.

3 Q Yes or no, Detective?

4 THE COURT: Sustained.

5 Q Were you present at the lineup, Detective?

6 A Yes.

7 THE COURT: Mr. Chamberlain?

8 MR. CHAMBERLAIN: I'm sorry, your Honor. I am
9 unable to find a particular part of the transcript at
10 this moment.

11 THE COURT: This maybe a good time to break.

12 We are going to break at this point now and I'll
13 ask you to be back here tomorrow morning at 9:30.

14 Do not discuss the case amongst yourselves or
15 with anyone else. Keep an open mind. Do not form or
16 express any opinions until the entire case has been
17 completed.

18 Do not read or listen to any accounts of the
19 case should they be reported in the media. Do not
20 visit or view any place or premises that have been
21 mentioned.

22 You are not to permit any party to discuss the
23 case with you or attempt to influence you, and you
24 must promptly report to the Court any violation
25 thereof.

Proceedings

1 Have a nice evening. We will see you tomorrow
2 at 9:30.

3 (Whereupon, the sworn jurors exited the
4 courtroom.)

5 THE COURT: Detective, please do not discuss the
6 case with anybody. We'll see you tomorrow morning at
7 9:30.

8 THE WITNESS: Thank you.

9 (Whereupon, the witness was excused from the
10 witness stand.)

11 THE COURT: Counsel, 9:30 tomorrow.

12 MR. BIANCAVILLA: Whatever you say.

13 (Whereupon, the above matter was adjourned to
14 May 15, 2002.)

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